



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FOURTH GENERAL ASSEMBLY

57TH LEGISLATIVE DAY

WEDNESDAY, OCTOBER 26, 2005

11:25 O'CLOCK A.M.

SENATE
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57th Legislative Day

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The Senate met pursuant to adjournment.

Senator Debbie DeFrancesco Halvorson, Kankakee, Illinois, presiding.

Prayer by Reverend Brandon Boyd, Loami Christian Church, Loami, Illinois.

Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Wednesday, October 19, 2005, was being read when on motion of Senator Hunter, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Hunter moved that reading and approval of the Journal of Tuesday, October 25, 2005, be postponed, pending arrival of the printed Journal.

The motion prevailed.

INTRODUCTION OF BILLS

SENATE BILL NO. 2139. Introduced by Senator Hunter, a bill for AN ACT concerning public employee benefits.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2140. Introduced by Senator Sandoval, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2141. Introduced by Senator Righter, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2142. Introduced by Senator Roskam, a bill for AN ACT concerning municipalities.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2143. Introduced by Senator Althoff, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2144. Introduced by Senator Jacobs, a bill for AN ACT concerning regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2145. Introduced by Senator Haine, a bill for AN ACT concerning insurance.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

PRESENTATION OF RESOLUTION

SENATE RESOLUTION 490

Offered by Senator Haine and all Senators:

Mourns the death of Lena “Grandma Moose” Sly, of Wood River.

[October 26, 2005]

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

Senator J. Jones offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 53

WHEREAS, Robert Ridgway was an internationally known scientist, explorer, ornithologist, naturalist, inventor, author, and artist; and

WHEREAS, Robert Ridgway served with the Smithsonian Institution for 62 years and was Zoologist for the USGS 40th Parallel Expedition and the Harriman Expedition in Alaska; and

WHEREAS, Robert Ridgway ranks with John James Audubon, Daniel Boone, Thomas Edison, the Wright Brothers, and John C. Fremont for his accomplishments and explorations for America and the world; and

WHEREAS, The Illinois State Historical Society and the Illinois Department of Transportation in 1967 erected a historical sign 1.5 miles east of the Fox River Bridge, along U.S. Route 50, to honor Robert Ridgway; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the U.S. Route 50 Fox River Bridge, west of the City of Olney in Richland County, be designated the Robert Ridgway Bridge; and be it further

RESOLVED, That the Illinois Department of Transportation is requested to erect at suitable locations, consistent with State and federal regulations, appropriate plaques or signs giving notice of the name; and be it further

RESOLVED, That copies of this resolution be delivered to the Secretary of the U.S. Department of Transportation; the Secretary of the Illinois Department of transportation; the mayor of the City of Olney; and the Richland County Board.

MOTION IN WRITING

Senator Millner submitted the following Motion in Writing:

MOTION

I move that Senate Bill 57 do pass, the veto of the Governor to the contrary notwithstanding.

Date: October 25, 2005

s/J. Millner
Senator

The foregoing Motion in Writing was filed with the Secretary and placed on the Senate Calendar

CONFERENCE COMMITTEE APPOINTED

Senator Emil Jones Jr., President of the Senate, appointed the following Senators to be members of the First Conference Committee on House Bill 3801: Senators Senator Collins, Senator Cullerton, Senator Raoul, Senator Petka and Senator Dillard.

Ordered that the Secretary inform the House of Representatives thereof.

[October 26, 2005]

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Raoul, **House Bill No. 466** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 692** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator J. Sullivan, **House Bill No. 708** having been printed, was taken up and read by title a second time.

Senator J. Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 708

AMENDMENT NO. 1. Amend House Bill 708 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 18b-101 and 18b-105 as follows:

(625 ILCS 5/18b-101) (from Ch. 95 1/2, par. 18b-101)

Sec. 18b-101. Definitions. Unless the context otherwise clearly requires, as used in this Chapter:

"Agricultural commodities" means any agricultural commodity, non-processed food, feed, fiber, or livestock, including insects.

"Agricultural operations" means the operation of a motor vehicle or combination of vehicles transporting agricultural commodities or farm supplies for agricultural purposes.

"Air mile" means a nautical mile, which is equivalent to 6,076 feet or 1,852 meters. Accordingly, 100 air miles are equivalent to 115.08 statute miles or 185.2 kilometers.

"Commercial motor vehicle" means any self propelled or towed vehicle used on public highways in interstate and intrastate commerce to transport passengers or property when the vehicle has a gross vehicle weight, a gross vehicle weight rating, a gross combination weight, or a gross combination weight rating of 10,001 or more pounds; or the vehicle is used or designed to transport more than 15 passengers, including the driver; or the vehicle is designed to carry 15 or fewer passengers and is operated by a contract carrier transporting employees in the course of their employment on a highway of this State; or the vehicle is used or designed to transport between 9 and 15 passengers, including the driver, for direct compensation, if the vehicle is being operated beyond a radius of 75 air miles (86.3 statute miles or 138.9 kilometers) from the driver's normal work reporting location; or the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. This definition shall not include farm machinery, fertilizer spreaders, and other special agricultural movement equipment described in Section 3-809 nor implements of husbandry as defined in Section 1-130;

"Direct compensation" means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services;

"Farm supplies for agricultural purposes" means products directly related to the growing or harvesting of agricultural commodities and livestock feed at any time of the year;

"Livestock" means cattle, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food, and other animals designated by the Secretary of the United States Department of Transportation (at his or her sole discretion) that are part of a foundation herd (including producing dairy cattle) or offspring;

"Officer" means Illinois State Police Officer;

"Person" means any natural person or individual, governmental body, firm, association, partnership, copartnership, joint venture, company, corporation, joint stock company, trust, estate or any other legal entity or their legal representative, agent or assigns.

(Source: P.A. 92-108, eff. 1-1-02; 93-860, eff. 8-4-04.)

(625 ILCS 5/18b-105) (from Ch. 95 1/2, par. 18b-105)

Sec. 18b-105. Rules and Regulations.

(a) The Department is authorized to make and adopt reasonable rules and regulations and orders consistent with law necessary to carry out the provisions of this Chapter.

(b) The following parts of Title 49 of the Code of Federal Regulations, as now in effect, are hereby adopted by reference as though they were set out in full:

[October 26, 2005]

Part 40 - Procedures For Transportation Workplace Drug and Alcohol Testing Programs;
 Part 380 - Special Training Requirements;
 Part 382 - Controlled Substances and Alcohol Use and Testing;
 Part 383 - Commercial Driver's License Standards, Requirements, and Penalties;
 Part 385 - Safety Fitness Procedures;
 Part 386 Appendix B - Penalty Schedule; Violations and Maximum Monetary Penalties;
 Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers;
 Part 390 - Federal Motor Carrier Safety Regulations: General;
 Part 391 - Qualifications of Drivers;
 Part 392 - Driving of Motor Vehicles;
 Part 393 - Parts and Accessories Necessary for Safe Operation;
 Part 395 - Hours of Service of Drivers, except as provided in Section 18b-106.1;
 Part 396 - Inspection, Repair and Maintenance; and
 Part 397 - Transportation of hazardous materials; Driving and Parking Rules.

(b-5) Individuals who meet the requirements set forth in the definition of "medical examiner" in Section 390.5 of Part 390 of Title 49 of the Code of Federal Regulations may act as medical examiners in accordance with Part 391 of Title 49 of the Code of Federal Regulations.

(c) The following parts and Sections of the Federal Motor Carrier Safety Regulations shall not apply to those intrastate carriers, drivers or vehicles subject to subsection (b).

(1) Section 393.93 of Part 393 for those vehicles manufactured before June 30, 1972.

(2) Section 393.86 of Part 393 for those vehicles registered as farm trucks under subsection (c) of Section 3-815 of this Code.

(3) (Blank).

(4) (Blank).

(5) Paragraph (b)(1) of Section 391.11 of Part 391.

(6) All of Part 395 for all agricultural operations ~~movements~~ as defined in Section 18b-101 of this Chapter at any time of the year ~~1, between the period of February 1 through November 30 each year,~~ and all farm to

market agricultural transportation as defined in Chapter 1 and for grain hauling operations within a radius of 200 air miles of the normal work reporting location.

(7) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of Section 391.41 of part 391, but only for any driver who immediately prior to July 29, 1986 was eligible and licensed to operate a motor vehicle subject to this Section and was engaged in operating such vehicles, and who was disqualified on July 29, 1986 by the adoption of Part 391 by reason of the application of paragraphs (b)(3) and (b)(10) of Section 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

(d) Intrastate carriers subject to the recording provisions of Section 395.8 of Part 395 of the Federal Motor Carrier Safety Regulations shall be exempt as established under paragraph (1) of Section 395.8; provided, however, for the purpose of this Code, drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status.

(e) Regulations adopted by the Department subsequent to those adopted under subsection (b) hereof shall be identical in substance to the Federal Motor Carrier Safety Regulations of the United States Department of Transportation and adopted in accordance with the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act.

(Source: P.A. eff. 1-1-02; eff. 1-1-02; 94-519, eff. 8-10-05.)

(625 ILCS 5/1-101.6 rep.)

Section 10. The Illinois Vehicle Code is amended by repealing Section 1-101.6.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Link, **House Bill No. 1088** was taken up, read by title a second time and ordered to a third reading.

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On motion of Senator Garrett, **House Bill No. 1142** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Forby, **House Bill No. 1731** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Ronen, **House Bill No. 2133** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **House Bill No. 2459** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **House Bill No. 2612** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Harmon, **House Bill No. 2706** having been printed, was taken up and read by title a second time.

The following amendments were offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 2706

AMENDMENT NO. 1. Amend House Bill 2706 on page 20, by replacing line 9 with the following:

"changing Sections 203 and 902 as follows:

(35 ILCS 5/203) (from Ch. 120, par. 2-203)

Sec. 203. Base income defined.

(a) Individuals.

(1) In general. In the case of an individual, base income means an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by paragraph (2).

(2) Modifications. The adjusted gross income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of adjusted gross income, except stock dividends of qualified public utilities described in Section 305(e) of the Internal Revenue Code;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of adjusted gross income for the taxable year;

(C) An amount equal to the amount received during the taxable year as a recovery or refund of real property taxes paid with respect to the taxpayer's principal residence under the Revenue Act of 1939 and for which a deduction was previously taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application date of Article 4 of Public Act 87-17. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes for the entire property which is attributable to such principal residence;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of adjusted gross income;

(D-5) An amount, to the extent not included in adjusted gross income, equal to the amount of money withdrawn by the taxpayer in the taxable year from a medical care savings account and the interest earned on the account in the taxable year of a withdrawal pursuant to subsection (b) of Section 20 of the Medical Care Savings Account Act or subsection (b) of Section 20 of the Medical Care Savings Account Act of 2000;

(D-10) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the individual deducted in computing adjusted gross income and for which the individual claims a credit under subsection (l) of Section 201;

(D-15) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-16) If the taxpayer ~~sells, transfers, abandons, or otherwise disposes of~~ ~~reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of~~ property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (Z) with respect to that property.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(D-17) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-18) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17)

of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-20) For taxable years beginning on or after January 1, 2002, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act or (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B); and by deducting from the total so obtained the sum of the following amounts:

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard. The provisions of this amendatory Act of the 92nd General Assembly are exempt from the provisions of Section 250;

(F) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

- (G) The valuation limitation amount;
- (H) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;
- (I) An amount equal to all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted from adjusted gross income in the computation of taxable income;
- (J) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, and conducts substantially all of its operations in an Enterprise Zone or zones;
- (K) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (J) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (K);
- (L) For taxable years ending after December 31, 1983, an amount equal to all social security benefits and railroad retirement benefits included in such total pursuant to Sections 72(r) and 86 of the Internal Revenue Code;
- (M) With the exception of any amounts subtracted under subparagraph (N), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;
- (N) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;
- (O) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;
- (P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;
- (Q) An amount equal to any amounts included in such total, received by the taxpayer as an acceleration in the payment of life, endowment or annuity benefits in advance of the time they would otherwise be payable as an indemnity for a terminal illness;
- (R) An amount equal to the amount of any federal or State bonus paid to veterans of the Persian Gulf War;
- (S) An amount, to the extent included in adjusted gross income, equal to the amount of a contribution made in the taxable year on behalf of the taxpayer to a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 to the extent the contribution is accepted by the account administrator as provided in that Act;
- (T) An amount, to the extent included in adjusted gross income, equal to the amount of interest earned in the taxable year on a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 on behalf of the taxpayer, other than interest added pursuant to item (D-5) of this paragraph (2);
- (U) For one taxable year beginning on or after January 1, 1994, an amount equal to the total amount of tax imposed and paid under subsections (a) and (b) of Section 201 of this Act on grant amounts received by the taxpayer under the Nursing Home Grant Assistance Act during the taxpayer's taxable years 1992 and 1993;
- (V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986,

has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return;

(W) For taxable years beginning on or after January 1, 1998, all amounts included in the taxpayer's federal gross income in the taxable year from amounts converted from a regular IRA to a Roth IRA. This paragraph is exempt from the provisions of Section 250;

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(Y) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2004, moneys contributed in the taxable year to a College Savings Pool account under Section 16.5 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). For taxable years beginning on or after January 1, 2005, a maximum of \$10,000 contributed in the taxable year to (i) a College Savings Pool account under Section 16.5 of the State Treasurer Act or (ii) the Illinois Prepaid Tuition Trust Fund, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250;

(Z) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; ~~and~~

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction (~~30% of the~~

~~adjusted basis of the qualified property)~~ taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (Z) is exempt from the provisions of Section 250.

~~(AA) If the taxpayer sells, transfers, abandons, or otherwise disposes of reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable~~

~~year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.~~

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (AA) is exempt from the provisions of Section 250;

(BB) Any amount included in adjusted gross income, other than salary, received by a driver in a ridesharing arrangement using a motor vehicle;

(CC) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(~~E-12~~) (~~E-13~~), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of that addition modification, and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2) (~~E-13~~) (~~E-14~~), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of that addition modification;

(DD) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-17) for interest paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(EE) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person.

(b) Corporations.

(1) In general. In the case of a corporation, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest and all distributions received from regulated investment companies during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(C) In the case of a regulated investment company, an amount equal to the excess of (i) the net long-term capital gain for the taxable year, over (ii) the amount of the capital gain dividends designated as such in accordance with Section 852(b)(3)(C) of the Internal Revenue Code and any amount designated under Section 852(b)(3)(D) of the Internal Revenue Code, attributable to the taxable year (this amendatory Act of 1995 (Public Act 89-89) is declarative of existing law and is not a new enactment);

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph

[October 26, 2005]

(1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such earlier taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(E-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the corporation deducted in computing adjusted gross income and for which the corporation claims a credit under subsection (l) of Section 201;

(E-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

~~(E-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any~~

taxable year to make an addition modification under subparagraph (E-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (T) with respect to that property.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(E-12) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois

tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(E-13) For taxable years ending on or after December 31, 2004, an amount equal to

the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

and by deducting from the total so obtained the sum of the following amounts:

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to any amount included in such total under Section 78 of the

Internal Revenue Code;

(H) In the case of a regulated investment company, an amount equal to the amount of exempt interest dividends as defined in subsection (b) (5) of Section 852 of the Internal Revenue Code, paid to shareholders for the taxable year;

(I) With the exception of any amounts subtracted under subparagraph (J), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(a)(2) and amounts disallowed as interest expense by Section 291(a)(3) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(a)(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(J) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act and conducts substantially all of its operations in an Enterprise Zone or zones;

(L) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph 2 of this subsection shall not be eligible for the deduction provided under this subparagraph (L);

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in the Enterprise Zone. The subtraction modification available to taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the High Impact Business Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(h) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(h) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois. No taxpayer that is eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall be eligible for the deduction provided under this subparagraph (M-1). The subtraction modification available to taxpayers in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(N) Two times any contribution made during the taxable year to a designated zone organization to the extent that the contribution (i) qualifies as a charitable contribution under subsection (c) of Section 170 of the Internal Revenue Code and (ii) must, by its terms, be used for a project approved by the Department of Commerce and Economic Opportunity under Section 11 of the Illinois Enterprise Zone Act;

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which

dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, from any such corporation specified in clause (i) that would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends;

(P) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(Q) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(R) In the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under Section 835 of the Internal Revenue Code, 26 U.S.C. 835, an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under Section 835(b) of the Internal Revenue Code for the taxable year;

(S) For taxable years ending on or after December 31, 1997, in the case of a Subchapter S corporation, an amount equal to all amounts of income allocable to a shareholder subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act, including amounts allocable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code. This subparagraph (S) is exempt from the provisions of Section 250;

(T) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; ~~and~~

(2) ~~for taxable years ending on or before on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and~~

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (T) is exempt from the provisions of Section 250;

~~(U) If the taxpayer sells, transfers, abandons, or otherwise disposes of reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.~~

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (U) is exempt from the provisions of Section 250:

(V) The amount of: (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification;

(W) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-12) for interest paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(X) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person.

(3) Special rule. For purposes of paragraph (2) (A), "gross income" in the case of a life insurance company, for tax years ending on and after December 31, 1994, shall mean the gross investment income for the taxable year.

(c) Trusts and estates.

(1) In general. In the case of a trust or estate, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. Subject to the provisions of paragraph (3), the taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) In the case of (i) an estate, \$600; (ii) a trust which, under its governing instrument, is required to distribute all of its income currently, \$300; and (iii) any other trust, \$100, but in each such case, only to the extent such amount was deducted in the computation of taxable income;

(C) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not

exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(F) For taxable years ending on or after January 1, 1989, an amount equal to the tax deducted pursuant to Section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit under Section 601 of this Act;

(G) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(G-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the trust or estate deducted in computing adjusted gross income and for which the trust or estate claims a credit under subsection (l) of Section 201;

(G-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

~~(G-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any~~

taxable year to make an addition modification under subparagraph (G-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (R) with respect to that property.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(G-12) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(G-13) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes: (1) expenses, losses, and costs for or related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act; and by deducting from the total so obtained the sum of the following amounts:

(H) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the Internal Revenue Code or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(I) The valuation limitation amount;

(J) An amount equal to the amount of any tax imposed by this Act which was refunded

to the taxpayer and included in such total for the taxable year;

(K) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C), (D), (E), (F) and (G) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(L) With the exception of any amounts subtracted under subparagraph (K), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2) and 265(a)(2) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(M) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act and conducts substantially all of its operations in an Enterprise Zone or Zones;

(N) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(O) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (O);

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; ~~and~~

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied

by 0.429); ~~and~~

(3) for taxable years ending after December 31, 2005:

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(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (R) is exempt from the provisions of Section 250.

~~(S) If the taxpayer sells, transfers, abandons, or otherwise disposes of reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.~~

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (S) is exempt from the provisions of Section 250.

(T) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification;

(U) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-12) for interest paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(V) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person.

(3) Limitation. The amount of any modification otherwise required under this subsection shall, under regulations prescribed by the Department, be adjusted by any amounts included therein which were properly paid, credited, or required to be distributed, or permanently set aside for charitable purposes pursuant to Internal Revenue Code Section 642(c) during the taxable year.

(d) Partnerships.

(1) In general. In the case of a partnership, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income for the taxable year;

(C) The amount of deductions allowed to the partnership pursuant to Section 707 (c) of the Internal Revenue Code in calculating its taxable income;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(D-5) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-6) If the taxpayer ~~sells, transfers, abandons, or otherwise disposes of~~ ~~reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of~~ property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (O) with respect to that property.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(D-7) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act; and

(D-8) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that

dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets;

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

and by deducting from the total so obtained the following amounts:

(E) The valuation limitation amount;

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C) and (D) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(H) Any income of the partnership which constitutes personal service income as defined in Section 1348 (b) (1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater;

(I) An amount equal to all amounts of income distributable to an entity subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act including amounts distributable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code;

(J) With the exception of any amounts subtracted under subparagraph (G), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of

the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, enacted by the 82nd General Assembly, and conducts substantially all of its operations in an Enterprise Zone or Zones;

(L) An amount equal to any contribution made to a job training project established pursuant to the Real Property Tax Increment Allocation Redevelopment Act;

(M) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (M);

(N) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(O) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; ~~and~~

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied
by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction (~~30% of the adjusted basis of the qualified property~~) taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (O) is exempt from the provisions of Section 250;

~~(P) If the taxpayer sells, transfers, abandons, or otherwise disposes of reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable~~
year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (P) is exempt from the provisions of Section 250;

(Q) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification;

(R) An amount equal to the interest income taken into account for the taxable year

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(net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-7) for interest paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(S) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-8) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person.

(e) Gross income; adjusted gross income; taxable income.

(1) In general. Subject to the provisions of paragraph (2) and subsection (b) (3), for purposes of this Section and Section 803(e), a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code. Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

(2) Special rule. For purposes of paragraph (1) of this subsection, the taxable income properly reportable for federal income tax purposes shall mean:

(A) Certain life insurance companies. In the case of a life insurance company subject to the tax imposed by Section 801 of the Internal Revenue Code, life insurance company taxable income, plus the amount of distribution from pre-1984 policyholder surplus accounts as calculated under Section 815a of the Internal Revenue Code;

(B) Certain other insurance companies. In the case of mutual insurance companies subject to the tax imposed by Section 831 of the Internal Revenue Code, insurance company taxable income;

(C) Regulated investment companies. In the case of a regulated investment company subject to the tax imposed by Section 852 of the Internal Revenue Code, investment company taxable income;

(D) Real estate investment trusts. In the case of a real estate investment trust subject to the tax imposed by Section 857 of the Internal Revenue Code, real estate investment trust taxable income;

(E) Consolidated corporations. In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, taxable income determined as if such corporation had filed a separate return for federal income tax purposes for the taxable year and each preceding taxable year for which it was a member of an affiliated group. For purposes of this subparagraph, the taxpayer's separate taxable income shall be determined as if the election provided by Section 243(b) (2) of the Internal Revenue Code had been in effect for all such years;

(F) Cooperatives. In the case of a cooperative corporation or association, the taxable income of such organization determined in accordance with the provisions of Section 1381 through 1388 of the Internal Revenue Code;

(G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section 1363(b) of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated; and (ii) a Subchapter S corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982, the taxable income of such corporation determined in accordance with the federal Subchapter S rules as in effect on July 1, 1982; and

(H) Partnerships. In the case of a partnership, taxable income determined in accordance with Section 703 of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 703(a)(1) to be separately stated but which would be taken into account by an individual in calculating his taxable income.

(3) Recapture of business expenses on disposition of asset or business. Notwithstanding any other law to the contrary, if in prior years income from an asset or business has been classified as business income and in a later year is demonstrated to be non-business income, then all expenses, without limitation, deducted in such later year and in the 2 immediately preceding taxable years related to that asset or business that generated the non-business income shall be added back and recaptured as business income in the year of the disposition of the asset or business. Such amount shall be apportioned to Illinois using the greater of the apportionment fraction computed for the business under Section 304 of this Act for the taxable year or the average of the apportionment fractions computed for the business under Section 304 of this Act for the taxable year and for the 2 immediately preceding taxable years.

(f) Valuation limitation amount.

(1) In general. The valuation limitation amount referred to in subsections (a) (2)

(G), (c) (2) (I) and (d)(2) (E) is an amount equal to:

(A) The sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of gain reportable under the provisions of Section 1245 or 1250 of the Internal Revenue Code) for all property in respect of which such gain was reported for the taxable year; plus

(B) The lesser of (i) the sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of capital gain) for all property in respect of which such gain was reported for federal income tax purposes for the taxable year, or (ii) the net capital gain for the taxable year, reduced in either case by any amount of such gain included in the amount determined under subsection (a) (2) (F) or (c) (2) (H).

(2) Pre-August 1, 1969 appreciation amount.

(A) If the fair market value of property referred to in paragraph (1) was readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is the lesser of (i) the excess of such fair market value over the taxpayer's basis (for determining gain) for such property on that date (determined under the Internal Revenue Code as in effect on that date), or (ii) the total gain realized and reportable for federal income tax purposes in respect of the sale, exchange or other disposition of such property.

(B) If the fair market value of property referred to in paragraph (1) was not readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is that amount which bears the same ratio to the total gain reported in respect of the property for federal income tax purposes for the taxable year, as the number of full calendar months in that part of the taxpayer's holding period for the property ending July 31, 1969 bears to the number of full calendar months in the taxpayer's entire holding period for the property.

(C) The Department shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

(g) Double deductions. Unless specifically provided otherwise, nothing in this Section shall permit the same item to be deducted more than once.

(h) Legislative intention. Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

[October 26, 2005]

(Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff. 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04)."

AMENDMENT NO. 2 TO HOUSE BILL 2706

AMENDMENT NO. 2. Amend House Bill 2706 by deleting all of Section 7.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Sandoval, **House Bill No. 2943** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 3158** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Viverito, **House Bill No. 3478** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator J. Sullivan, **House Bill No. 3814** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 4025** was taken up, read by title a second time and ordered to a third reading.

CONSIDERATION OF GOVERNOR'S VETO MESSAGES

Pursuant to the Motion in Writing filed on Wednesday, October 19, 2005 and journalized Wednesday, October 19, 2005, Senator Sandoval moved that **Senate Bill No. 288** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 54; Nays 2.

The following voted in the affirmative:

| | | | |
|-----------|-----------|-------------|---------------|
| Althoff | Forby | Luechtefeld | Roskam |
| Axley | Garrett | Maloney | Rutherford |
| Bomke | Geo-Karis | Martinez | Sandoval |
| Brady | Haine | Meeks | Schoenberg |
| Burzynski | Halvorson | Millner | Shadid |
| Clayborne | Harmon | Munoz | Sieben |
| Collins | Hendon | Pankau | Sullivan, J. |
| Cronin | Hunter | Peterson | Syverson |
| Crotty | Jacobs | Petka | Trotter |
| Cullerton | Jones, J. | Radogno | Viverito |
| Dahl | Jones, W. | Raoul | Winkel |
| del Valle | Lauzen | Righter | Mr. President |
| DeLeo | Lightford | Risinger | |
| Dillard | Link | Ronen | |

The following voted in the negative:

Demuzio
Wilhelmi

This bill, having received the vote of three-fifths of the members elected, was declared passed, the veto of the Governor to the contrary notwithstanding.

[October 26, 2005]

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 19, 2005 and journalized Wednesday, October 19, 2005, Senator Link moved that **Senate Bill No. 847** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 55; Nays 2.

The following voted in the affirmative:

| | | | |
|-----------|-----------|-------------|---------------|
| Althoff | Dillard | Link | Rutherford |
| Axley | Forby | Luechtefeld | Sandoval |
| Bomke | Garrett | Maloney | Schoenberg |
| Brady | Geo-Karis | Martinez | Shadid |
| Burzynski | Haine | Meeks | Sieben |
| Clayborne | Halvorson | Millner | Sullivan, J. |
| Collins | Harmon | Munoz | Syverson |
| Cronin | Hendon | Peterson | Trotter |
| Crotty | Hunter | Petka | Viverito |
| Cullerton | Jacobs | Radogno | Watson |
| Dahl | Jones, J. | Raoul | Wilhelmi |
| del Valle | Jones, W. | Risinger | Winkel |
| DeLeo | Lauzen | Ronen | Mr. President |
| Demuzio | Lightford | Roskam | |

The following voted in the negative:

Pankau
Righter

This bill, having received the vote of three-fifths of the members elected, was declared passed, the veto of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 19, 2005 and journalized Wednesday, October 19, 2005, Senator Harmon moved that **Senate Bill No. 1294** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-----------|----------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Lauzen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |

[October 26, 2005]

| | | |
|---------|-------------|------------|
| Demuzio | Link | Roskam |
| Dillard | Luechtefeld | Rutherford |

This bill, having received the vote of three-fifths of the members elected, was declared passed, the veto of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 19, 2005 and journalized Wednesday, October 19, 2005, Senator Lightford moved that **Senate Bill No. 2087** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 55; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-----------|-------------|---------------|
| Althoff | Forby | Luechtefeld | Rutherford |
| Axley | Garrett | Maloney | Sandoval |
| Bomke | Geo-Karis | Martinez | Schoenberg |
| Brady | Haine | Meeks | Shadid |
| Clayborne | Halvorson | Millner | Sieben |
| Collins | Harmon | Munoz | Sullivan, J. |
| Cronin | Hendon | Peterson | Syverson |
| Crotty | Hunter | Petka | Trotter |
| Cullerton | Jacobs | Radogno | Viverito |
| Dahl | Jones, J. | Raoul | Watson |
| del Valle | Jones, W. | Righter | Wilhelmi |
| DeLeo | Laufen | Risinger | Winkel |
| Demuzio | Lightford | Ronen | Mr. President |
| Dillard | Link | Roskam | |

This bill, having received the vote of three-fifths of the members elected, was declared passed, the veto of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 19, 2005 and journalized Wednesday, October 19, 2005, Senator Lightford moved that **Senate Bill No. 272** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 39; Nays 18.

The following voted in the affirmative:

| | | | |
|-----------|-----------|------------|---------------|
| Althoff | Forby | Link | Sandoval |
| Clayborne | Garrett | Maloney | Schoenberg |
| Collins | Haine | Martinez | Shadid |
| Cronin | Halvorson | Meeks | Sieben |
| Crotty | Harmon | Millner | Sullivan, J. |
| Cullerton | Hendon | Munoz | Trotter |
| Dahl | Hunter | Peterson | Viverito |
| del Valle | Jacobs | Raoul | Winkel |
| DeLeo | Jones, W. | Ronen | Mr. President |
| Dillard | Lightford | Rutherford | |

The following voted in the negative:

[October 26, 2005]

| | | | |
|-----------|-------------|----------|----------|
| Axley | Geo-Karis | Petka | Syversen |
| Bomke | Jones, J. | Radogno | Watson |
| Brady | Lauzen | Righter | Wilhelmi |
| Burzynski | Luechtefeld | Risinger | |
| Demuzio | Pankau | Roskam | |

This bill, having received the vote of three-fifths of the members elected, was declared passed, the veto of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 19, 2005 and journalized Wednesday, October 19, 2005, Senator Clayborne moved that **Senate Bill No. 357** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 44; Nays 10.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Clayborne | Geo-Karis | Meeks | Schoenberg |
| Collins | Haine | Millner | Sieben |
| Cronin | Harmon | Munoz | Syversen |
| Crotty | Hendon | Pankau | Trotter |
| Cullerton | Hunter | Peterson | Viverito |
| Dahl | Jacobs | Radogno | Watson |
| del Valle | Jones, W. | Raoul | Winkel |
| DeLeo | Lightford | Risinger | Mr. President |
| Demuzio | Link | Ronen | |
| Dillard | Luechtefeld | Roskam | |
| Forby | Maloney | Rutherford | |
| Garrett | Martinez | Sandoval | |

The following voted in the negative:

| | | | |
|---------|-----------|--------------|----------|
| Althoff | Brady | Jones, J. | Wilhelmi |
| Axley | Burzynski | Lauzen | |
| Bomke | Halvorson | Sullivan, J. | |

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Tuesday, October 25, 2005 and journalized Tuesday, October 25, 2005, Senator Radogno moved that **Senate Bill No. 1654** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 54; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-----------|-------------|--------------|
| Althoff | Dillard | Luechtefeld | Sandoval |
| Axley | Forby | Martinez | Schoenberg |
| Bomke | Garrett | Meeks | Shadid |
| Brady | Geo-Karis | Munoz | Sieben |
| Burzynski | Haine | Pankau | Sullivan, J. |
| Clayborne | Halvorson | Peterson | Syversen |

[October 26, 2005]

| | | | |
|-----------|-----------|------------|---------------|
| Collins | Harmon | Petka | Trotter |
| Cronin | Hendon | Radogno | Viverito |
| Crotty | Hunter | Raoul | Watson |
| Cullerton | Jacobs | Righter | Wilhelmi |
| Dahl | Jones, J. | Risinger | Winkel |
| del Valle | Lauzen | Ronen | Mr. President |
| DeLeo | Lightford | Roskam | |
| Demuzio | Link | Rutherford | |

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Millner asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 1654**.

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Jacobs moved that **House Joint Resolution No. 34**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Jacobs moved that House Joint Resolution No. 34 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Schoenberg |
| Axley | Garrett | Martinez | Shadid |
| Bomke | Geo-Karis | Meeks | Sieben |
| Brady | Haine | Millner | Sullivan, J. |
| Burzynski | Halvorson | Munoz | Syverson |
| Clayborne | Harmon | Pankau | Trotter |
| Collins | Hendon | Peterson | Viverito |
| Cronin | Hunter | Petka | Watson |
| Crotty | Jacobs | Radogno | Wilhelmi |
| Cullerton | Jones, J. | Raoul | Winkel |
| Dahl | Jones, W. | Risinger | Mr. President |
| del Valle | Lauzen | Ronen | |
| DeLeo | Lightford | Roskam | |
| Demuzio | Link | Rutherford | |
| Dillard | Luechtefeld | Sandoval | |

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Demuzio moved that **House Joint Resolution No. 42**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Demuzio moved that House Joint Resolution No. 42 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

[October 26, 2005]

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Martinez | Schoenberg |
| Axley | Garrett | Meeks | Shadid |
| Bomke | Geo-Karis | Millner | Sieben |
| Brady | Haine | Munoz | Sullivan, J. |
| Burzynski | Halvorson | Pankau | Syverson |
| Clayborne | Harmon | Peterson | Trotter |
| Collins | Hendon | Petka | Viverito |
| Cronin | Hunter | Radogno | Watson |
| Crotty | Jacobs | Raoul | Wilhelmi |
| Cullerton | Jones, J. | Righter | Winkel |
| Dahl | Jones, W. | Risinger | Mr. President |
| del Valle | Lightford | Ronen | |
| DeLeo | Link | Roskam | |
| Demuzio | Luechtefeld | Rutherford | |
| Dillard | Maloney | Sandoval | |

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Lightford moved that **House Joint Resolution No. 54**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Lightford moved that House Joint Resolution No. 54 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Bomke moved that **Senate Joint Resolution No. 49**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Bomke moved that Senate Joint Resolution No. 49 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 55; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|----------|---------------|
| Althoff | Garrett | Maloney | Rutherford |
| Axley | Geo-Karis | Martinez | Sandoval |
| Bomke | Haine | Meeks | Schoenberg |
| Brady | Halvorson | Millner | Shadid |
| Clayborne | Harmon | Munoz | Sieben |
| Collins | Hendon | Pankau | Sullivan, J. |
| Cronin | Hunter | Peterson | Syverson |
| Crotty | Jacobs | Petka | Trotter |
| Cullerton | Jones, J. | Radogno | Viverito |
| Dahl | Jones, W. | Raoul | Watson |
| del Valle | Lauzen | Righter | Wilhelmi |
| DeLeo | Lightford | Risinger | Winkel |
| Demuzio | Link | Ronen | Mr. President |
| Forby | Luechtefeld | Roskam | |

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Wilhelmi moved that **Senate Resolution No. 253**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Wilhelmi moved that Senate Resolution No. 253 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Link moved that **Senate Resolution No. 258**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Link moved that Senate Resolution No. 258 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Collins moved that **House Joint Resolution No. 31**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on State Government, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE JOINT RESOLUTION 31

AMENDMENT NO. 1. Amend House Joint Resolution 31 on page 3, line 13, by changing "2005" to "2006"; and

on page 4, line 4, by changing "2006" to "2007".

Senator Collins moved that House Joint Resolution No. 31 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 54; Nays None.

The following voted in the affirmative:

[October 26, 2005]

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Garrett | Maloney | Sandoval |
| Axley | Geo-Karis | Martinez | Schoenberg |
| Bomke | Haine | Meeks | Shadid |
| Brady | Halvorson | Millner | Sieben |
| Clayborne | Harmon | Munoz | Sullivan, J. |
| Collins | Hendon | Pankau | Syverson |
| Crotty | Hunter | Peterson | Trotter |
| Cullerton | Jacobs | Petka | Viverito |
| Dahl | Jones, J. | Radogno | Watson |
| del Valle | Jones, W. | Raoul | Wilhelmi |
| DeLeo | Laufen | Risinger | Winkel |
| Demuzio | Lightford | Ronen | Mr. President |
| Dillard | Link | Roskam | |
| Forby | Luechtefeld | Rutherford | |

The motion prevailed.

And the resolution, as amended, was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Garrett moved that **House Joint Resolution No. 43**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Garrett moved that House Joint Resolution No. 43 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

REPORT FROM STANDING COMMITTEE

Senator Hendon, Co-Chairperson of the Committee on Executive Appointments, moved that the Senate resolve itself into Executive Session to consider the report of that Committee relative to the Governor's, Secretary of State's and Comptroller's appointments.

The motion prevailed.

[October 26, 2005]

EXECUTIVE SESSION

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of April 21, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

ELECTIONS, STATE BOARD OF

To be a member of the State Board of Elections for a term commencing July 1, 2005, and ending June 30, 2009:

Patrick Brady of Winnetka
Salaried

To be a member of the State Board of Elections for a term commencing July 1, 2005, and ending June 30, 2009:

Albert Porter of Chicago
Salaried

To be a member of the State Board of Elections for a term commencing July 1, 2005, and ending June 30, 2009:

Wanda Rednour of DuQuoin
Salaried

To be a member of the State Board of Elections for a term commencing July 1, 2005, and ending June 30, 2009:

Robert Walters of Brighton
Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

[October 26, 2005]

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 10, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

MINING BOARD, STATE

To be a Member of the State Mining Board for a term commencing April 22, 2005 and ending January 15, 2007:

Jerry Cross of Marissa
Salaried

To be a Member of the State Mining Board for a term commencing April 25, 2005 and ending January 15, 2007:

Adrian Kenneth Fritzche of Auburn
Salaried

To be a Member of the State Mining Board for a term commencing April 22, 2005 and ending January 15, 2007:

Don Orso of Herrin
Salaried

To be a Member of the State Mining Board for a term commencing April 22, 2005 and ending January 15, 2007:

Donald E. Stewart of Gillespie
Salaried

To be a Member of the State Mining Board for a term commencing April 22, 2005 and ending January 15, 2007:

George Teegarden of Harrisburg
Salaried

To be a Member of the State Mining Board for a term commencing April 22, 2005 and ending January 15, 2007:

David L. Webb of Raymond
Salaried

PUBLIC AID, ILLINOIS DEPARTMENT OF

To be Inspector General of the Illinois Department of Public Aid for a term commencing May 2, 2005 and ending January 19, 2009:

John C. Allen, IV of River Forest
Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

[October 26, 2005]

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 25, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

POLLUTION CONTROL BOARD

To be a Member of the Illinois Pollution Control Board for a term commencing May 13, 2005 and ending July 1, 2008:

G. Tanner Girard of Havana
Salaried

To be a Member of the Illinois Pollution Control Board for a term commencing May 13, 2005 and ending July 1, 2008:

Nicholas J. Melas of Chicago
Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-----------|----------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |

[October 26, 2005]

Dillard

Luechtefeld

Rutherford

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Secretary of State's Message to the Senate of August 2, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

EXECUTIVE INSPECTOR GENERAL FOR THE OFFICE OF THE SECRETARY OF STATE

To be Executive Inspector General for the Office of Secretary of State for a term ending December 31, 2007.

Nathan Maddox
(Salaried)

Senator Hendon moved that the Senate advise and consent to the foregoing appointment.
And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Martinez | Schoenberg |
| Axley | Garrett | Meeks | Shadid |
| Bomke | Geo-Karis | Millner | Sieben |
| Brady | Haine | Munoz | Sullivan, J. |
| Burzynski | Halvorson | Pankau | Syverson |
| Clayborne | Harmon | Peterson | Trotter |
| Collins | Hunter | Petka | Viverito |
| Cronin | Jacobs | Radogno | Watson |
| Crotty | Jones, J. | Raoul | Wilhelmi |
| Cullerton | Jones, W. | Righter | Winkel |
| Dahl | Laufen | Risinger | Mr. President |
| del Valle | Lightford | Ronen | |
| DeLeo | Link | Roskam | |
| Demuzio | Luechtefeld | Rutherford | |
| Dillard | Maloney | Sandoval | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Comptroller's Message to the Senate of October 11, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

Director of the Department of Human Resources for the Office of the Comptroller

Judith L. McAnarney
(Salaried)

Senator Hendon moved that the Senate advise and consent to the foregoing appointment.
And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays None.

[October 26, 2005]

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Martinez | Schoenberg |
| Axley | Garrett | Meeks | Shadid |
| Bomke | Geo-Karis | Millner | Sieben |
| Brady | Haine | Munoz | Sullivan, J. |
| Burzynski | Halvorson | Pankau | Syverson |
| Clayborne | Harmon | Peterson | Trotter |
| Collins | Hendon | Petka | Viverito |
| Cronin | Hunter | Radogno | Watson |
| Crotty | Jacobs | Raoul | Wilhelmi |
| Cullerton | Jones, J. | Righter | Winkel |
| Dahl | Jones, W. | Risinger | Mr. President |
| del Valle | Laufen | Ronen | |
| DeLeo | Link | Roskam | |
| Demuzio | Luechtefeld | Rutherford | |
| Dillard | Maloney | Sandoval | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 5, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

COMMUNITY COLLEGE BOARD, ILLINOIS

To be a Member of the Illinois Community College Board for a term commencing April 19, 2005 and ending June 30, 2009:

John Lewis Aurand, Jr. of Homewood
Non-Salaried

To be a Member of the Illinois Community College Board for a term commencing April 19, 2005 and ending June 30, 2011:

John E. Donahue of Orland Park
Non-Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-----------|----------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |

[October 26, 2005]

| | | |
|---------|-------------|------------|
| DeLeo | Lightford | Ronen |
| Demuzio | Link | Roskam |
| Dillard | Luechtefeld | Rutherford |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 10, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

EASTERN ILLINOIS UNIVERSITY BOARD OF TRUSTEES

To be a Member of the Eastern Illinois University Board of Trustees for a term commencing April 28, 2005 and ending January 17, 2011:

Robert D. Webb of Mattoon
Non-Salaried

NORTHEASTERN ILLINOIS UNIVERSITY BOARD OF TRUSTEES

To be a Member of the Northeastern Illinois Board of Trustees for a term commencing April 28, 2005 and ending January 21, 2011:

Margaret Laurino of Chicago
Non-Salaried

WESTERN ILLINOIS UNIVERSITY BOARD OF TRUSTEES

To be a Member of the Western Illinois University Board of Trustees for a term commencing April 29, 2005 and ending January 17, 2011:

William L. Epperly of Chicago
Non-Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Laufen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

[October 26, 2005]

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 16, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

INVESTMENT, ILLINOIS STATE BOARD OF

To be a Member of the Illinois State Board of Investment for a term commencing May 6, 2005 and ending January 21, 2008:

Guy W. Alongi of DuQuoin
Non-Salaried

NORTHERN ILLINOIS UNIVERSITY BOARD OF TRUSTEES

To be a member of the Northern Illinois Board of Trustees for a term commencing May 6, 2005 and ending January 17, 2011:

Cherilyn G. Murer of Homer Glen
Non-Salaried

To be a member of the Northern Illinois Board of Trustees for a term commencing May 6, 2005 and ending January 17, 2011:

Myron E. Siegel of Bannockburn
Non-Salaried

To be a member of the Northern Illinois Board of Trustees for a term commencing May 6, 2005 and ending January 17, 2011:

Marc J. Strauss of DeKalb
Non-Salaried

To be a member of the Northern Illinois Board of Trustees for a term commencing May 6, 2005 and ending January 17, 2011:

Barbara Giorgi Vella of Rockford
Non-Salaried

RACING BOARD, ILLINOIS

To be a Member of the Illinois Racing Board for a term commencing May 6, 2005 and ending July 1, 2008:

Joseph N. Casciato of Burr Ridge
Non-Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff
Axley

Forby
Garrett

Maloney
Martinez

Sandoval
Schoenberg

[October 26, 2005]

| | | | |
|-----------|-------------|------------|---------------|
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Lauzen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 25, 2005, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

CARNIVAL AMUSEMENT SAFETY BOARD

To be a Member of the Carnival Amusement Safety Board for a term commencing May 13, 2005 and ending January 17, 2009:

Patricia A. Sullivan of Jacksonville
Non-Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointment.
And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sullivan, J. |
| Burzynski | Halvorson | Munoz | Syverson |
| Clayborne | Harmon | Pankau | Trotter |
| Collins | Hendon | Peterson | Viverito |
| Cronin | Hunter | Petka | Watson |
| Crotty | Jacobs | Radogno | Wilhelmi |
| Cullerton | Jones, J. | Raoul | Winkel |
| Dahl | Jones, W. | Righter | Mr. President |
| del Valle | Lauzen | Risinger | |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Hendon and Senator Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Comptroller's Message to the Senate of October 11, 2005,

[October 26, 2005]

reported the same back with the recommendation that the Senate advise and consent to the following appointment:

To serve on the Comptroller's Merit Commission:

Jacquelyn E. Brown
Non-Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointment.
And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|---------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Lauzen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

On motion of Senator Hendon, the Executive Session arose and the Senate resumed consideration of business.

Honorable Emil Jones, Jr., President of the Senate, presiding.

At the hour of 12:43 o'clock p.m., Senator Viverito presiding.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to Senate Bill 1283
Senate Floor Amendment No. 1 to Senate Bill 1990

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to House Bill 466
Senate Floor Amendment No. 3 to House Bill 481
Senate Floor Amendment No. 3 to House Bill 2706

The following Floor amendment to the Senate Joint Resolution listed below has been filed with the Secretary and referred to the Committee on Rules:

[October 26, 2005]

Senate Floor Amendment No. 1 to Senate Joint Resolution 52

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

October 26, 2005

Ms. Linda Hawker
Secretary of the Senate
Room 403 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish December 31, 2005 as the Third Reading deadline for the following House Bill 1009.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its October 26, 2005 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Executive: **Floor Amendment No. 1 to Senate Bill 830; Floor Amendment No. 1 to Senate Bill 1283.**

Pensions & Investments: **House Bill 1009.**

Revenue: **Floor Amendment No. 3 to House Bill 2706.**

COMMITTEE MEETING ANNOUNCEMENTS

Senator Harmon, Chairperson of the Committee on Revenue, announced that the Revenue Committee will meet today in Room 400, at 1:55 o'clock p.m.

Senator Cullerton, Vice-Chairperson of the Committee on Executive, announced that the Executive Committee will meet today in Room 212, at 1:55 o'clock p.m.

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 852** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

[October 26, 2005]

AMENDMENT NO. 1 TO SENATE BILL 852

AMENDMENT NO. 1. Amend Senate Bill 852 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 19-1 as follows:

(105 ILCS 5/19-1) (from Ch. 122, par. 19-1)

(Text of Section before amendment by P.A. 94-234)

Sec. 19-1. Debt limitations of school districts.

(a) School districts shall not be subject to the provisions limiting their indebtedness prescribed in "An Act to limit the indebtedness of counties having a population of less than 500,000 and townships, school districts and other municipal corporations having a population of less than 300,000", approved February 15, 1928, as amended.

No school districts maintaining grades K through 8 or 9 through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 6.9% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

No school districts maintaining grades K through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 13.8% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

Notwithstanding the provisions of any other law to the contrary, in any case in which the voters of a school district have approved a proposition for the issuance of bonds of such school district at an election held prior to January 1, 1979, and all of the bonds approved at such election have not been issued, the debt limitation applicable to such school district during the calendar year 1979 shall be computed by multiplying the value of taxable property therein, including personal property, as ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, by the percentage limitation applicable to such school district under the provisions of this subsection (a).

(b) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, additional indebtedness may be incurred in an amount not to exceed the estimated cost of acquiring or improving school sites or constructing and equipping additional building facilities under the following conditions:

(1) Whenever the enrollment of students for the next school year is estimated by the

board of education to increase over the actual present enrollment by not less than 35% or by not less than 200 students or the actual present enrollment of students has increased over the previous school year by not less than 35% or by not less than 200 students and the board of education determines that additional school sites or building facilities are required as a result of such increase in enrollment; and

(2) When the Regional Superintendent of Schools having jurisdiction over the school

district and the State Superintendent of Education concur in such enrollment projection or increase and approve the need for such additional school sites or building facilities and the estimated cost thereof; and

(3) When the voters in the school district approve a proposition for the issuance of

bonds for the purpose of acquiring or improving such needed school sites or constructing and equipping such needed additional building facilities at an election called and held for that purpose. Notice of such an election shall state that the amount of indebtedness proposed to be incurred would exceed the debt limitation otherwise applicable to the school district. The ballot for such proposition shall state what percentage of the equalized assessed valuation will be outstanding in bonds if the proposed issuance of bonds is approved by the voters; or

(4) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection

(b), if the school board determines that additional facilities are needed to provide a quality educational program and not less than 2/3 of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose; or

(5) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection

(b), if (i) the school district has previously availed itself of the provisions of paragraph (4) of this subsection (b) to enable it to issue bonds, (ii) the voters of the school district have not defeated a

proposition for the issuance of bonds since the referendum described in paragraph (4) of this subsection (b) was held, (iii) the school board determines that additional facilities are needed to provide a quality educational program, and (iv) a majority of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose.

In no event shall the indebtedness incurred pursuant to this subsection (b) and the existing indebtedness of the school district exceed 15% of the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979.

The indebtedness provided for by this subsection (b) shall be in addition to and in excess of any other debt limitation.

(c) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, in any case in which a public question for the issuance of bonds of a proposed school district maintaining grades kindergarten through 12 received at least 60% of the valid ballots cast on the question at an election held on or prior to November 8, 1994, and in which the bonds approved at such election have not been issued, the school district pursuant to the requirements of Section 11A-10 may issue the total amount of bonds approved at such election for the purpose stated in the question.

(d) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) and (2) of this subsection (d) may incur an additional indebtedness in an amount not to exceed \$4,500,000, even though the amount of the additional indebtedness authorized by this subsection (d), when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (d), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable to that district under subsection (a):

(1) The additional indebtedness authorized by this subsection (d) is incurred by the school district through the issuance of bonds under and in accordance with Section 17-2.11a for the purpose of replacing a school building which, because of mine subsidence damage, has been closed as provided in paragraph (2) of this subsection (d) or through the issuance of bonds under and in accordance with Section 19-3 for the purpose of increasing the size of, or providing for additional functions in, such replacement school buildings, or both such purposes.

(2) The bonds issued by the school district as provided in paragraph (1) above are issued for the purposes of construction by the school district of a new school building pursuant to Section 17-2.11, to replace an existing school building that, because of mine subsidence damage, is closed as of the end of the 1992-93 school year pursuant to action of the regional superintendent of schools of the educational service region in which the district is located under Section 3-14.22 or are issued for the purpose of increasing the size of, or providing for additional functions in, the new school building being constructed to replace a school building closed as the result of mine subsidence damage, or both such purposes.

(e) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) through (5) of this subsection (e) may, without referendum, incur an additional indebtedness in an amount not to exceed the lesser of \$5,000,000 or 1.5% of the value of the taxable property within the district even though the amount of the additional indebtedness authorized by this subsection (e), when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring that additional indebtedness, causes the aggregate indebtedness of the district to exceed or increases the amount by which the aggregate indebtedness of the district already exceeds the debt limitation otherwise applicable to that district under subsection (a):

(1) The State Board of Education certifies the school district under Section 19-1.5 as a financially distressed district.

(2) The additional indebtedness authorized by this subsection (e) is incurred by the financially distressed district during the school year or school years in which the certification of the district as a financially distressed district continues in effect through the issuance of bonds for the lawful school purposes of the district, pursuant to resolution of the school board and without referendum, as provided in paragraph (5) of this subsection.

(3) The aggregate amount of bonds issued by the financially distressed district during a fiscal year in which it is authorized to issue bonds under this subsection does not exceed the amount by which the aggregate expenditures of the district for operational purposes during the immediately

preceding fiscal year exceeds the amount appropriated for the operational purposes of the district in the annual school budget adopted by the school board of the district for the fiscal year in which the bonds are issued.

(4) Throughout each fiscal year in which certification of the district as a financially distressed district continues in effect, the district maintains in effect a gross salary expense and gross wage expense freeze policy under which the district expenditures for total employee salaries and wages do not exceed such expenditures for the immediately preceding fiscal year. Nothing in this paragraph, however, shall be deemed to impair or to require impairment of the contractual obligations, including collective bargaining agreements, of the district or to impair or require the impairment of the vested rights of any employee of the district under the terms of any contract or agreement in effect on the effective date of this amendatory Act of 1994.

(5) Bonds issued by the financially distressed district under this subsection shall bear interest at a rate not to exceed the maximum rate authorized by law at the time of the making of the contract, shall mature within 40 years from their date of issue, and shall be signed by the president of the school board and treasurer of the school district. In order to issue bonds under this subsection, the school board shall adopt a resolution fixing the amount of the bonds, the date of the bonds, the maturities of the bonds, the rates of interest of the bonds, and their place of payment and denomination, and shall provide for the levy and collection of a direct annual tax upon all the taxable property in the district sufficient to pay the principal and interest on the bonds to maturity. Upon the filing in the office of the county clerk of the county in which the financially distressed district is located of a certified copy of the resolution, it is the duty of the county clerk to extend the tax therefor in addition to and in excess of all other taxes at any time authorized to be levied by the district. If bond proceeds from the sale of bonds include a premium or if the proceeds of the bonds are invested as authorized by law, the school board shall determine by resolution whether the interest earned on the investment of bond proceeds or the premium realized on the sale of the bonds is to be used for any of the lawful school purposes for which the bonds were issued or for the payment of the principal indebtedness and interest on the bonds. The proceeds of the bond sale shall be deposited in the educational purposes fund of the district and shall be used to pay operational expenses of the district. This subsection is cumulative and constitutes complete authority for the issuance of bonds as provided in this subsection, notwithstanding any other law to the contrary.

(f) Notwithstanding the provisions of subsection (a) of this Section or of any other law, bonds in not to exceed the aggregate amount of \$5,500,000 and issued by a school district meeting the following criteria shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness:

(1) At the time of the sale of such bonds, the board of education of the district shall have determined by resolution that the enrollment of students in the district is projected to increase by not less than 7% during each of the next succeeding 2 school years.

(2) The board of education shall also determine by resolution that the improvements to be financed with the proceeds of the bonds are needed because of the projected enrollment increases.

(3) The board of education shall also determine by resolution that the projected increases in enrollment are the result of improvements made or expected to be made to passenger rail facilities located in the school district.

Notwithstanding the provisions of subsection (a) of this Section or of any other law, a school district that has availed itself of the provisions of this subsection (f) prior to July 22, 2004 (the effective date of Public Act 93-799) ~~this amendatory Act of the 93rd General Assembly~~ may also issue bonds approved by referendum up to an amount, including existing indebtedness, not exceeding 25% of the equalized assessed value of the taxable property in the district if all of the conditions set forth in items (1), (2), and (3) of this subsection (f) are met.

(g) Notwithstanding the provisions of subsection (a) of this Section or any other law, bonds in not to exceed an aggregate amount of 25% of the equalized assessed value of the taxable property of a school district and issued by a school district meeting the criteria in paragraphs (i) through (iv) of this subsection shall not be considered indebtedness for purposes of any statutory limitation and may be issued pursuant to resolution of the school board in an amount or amounts, including existing indebtedness, in excess of any statutory limitation of indebtedness heretofore or hereafter imposed:

(i) The bonds are issued for the purpose of constructing a new high school building to replace two adjacent existing buildings which together house a single high school, each of which is more than 65 years old, and which together are located on more than 10 acres and less than 11 acres of property.

[October 26, 2005]

(ii) At the time the resolution authorizing the issuance of the bonds is adopted, the cost of constructing a new school building to replace the existing school building is less than 60% of the cost of repairing the existing school building.

(iii) The sale of the bonds occurs before July 1, 1997.

(iv) The school district issuing the bonds is a unit school district located in a county of less than 70,000 and more than 50,000 inhabitants, which has an average daily attendance of less than 1,500 and an equalized assessed valuation of less than \$29,000,000.

(h) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27.6% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$24,000,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which buildings were originally constructed not less than 40 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after March 19, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(i) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$44,600,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which existing buildings were originally constructed not less than 80 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after December 31, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(j) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$140,000,000 and a best 3 months average daily attendance for the 1995-96 school year of at least 2,800;

(ii) The bonds are issued to purchase a site and build and equip a new high school, and the school district's existing high school was originally constructed not less than 35 years prior to the sale of the bonds;

(iii) At the time of the sale of the bonds, the board of education determines by resolution that a new high school is needed because of projected enrollment increases;

(iv) At least 60% of those voting in an election held after December 31, 1996 approve a proposition for the issuance of the bonds; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(k) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) through (4) of this subsection (k) may issue bonds to incur an additional indebtedness in an amount not to exceed \$4,000,000 even though the amount of the additional indebtedness authorized by this subsection (k), when incurred and added to the aggregate amount of indebtedness of the school district existing immediately prior to the school district incurring such additional indebtedness, causes the aggregate indebtedness of the school district to exceed or increases the amount by which the aggregate indebtedness of the district already exceeds the debt limitation otherwise applicable to that school district under subsection (a):

(1) the school district is located in 2 counties, and a referendum to authorize the additional indebtedness was approved by a majority of the voters of the school district voting on the proposition to authorize that indebtedness;

(2) the additional indebtedness is for the purpose of financing a multi-purpose room addition to the existing high school;

(3) the additional indebtedness, together with the existing indebtedness of the school district, shall not exceed 17.4% of the value of the taxable property in the school district, to be ascertained by the last assessment for State and county taxes; and

(4) the bonds evidencing the additional indebtedness are issued, if at all, within 120 days of the effective date of this amendatory Act of 1998.

(l) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 2000, a school district maintaining grades kindergarten through 8 may issue bonds up to an amount, including existing indebtedness, not exceeding 15% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) the district has an equalized assessed valuation for calendar year 1996 of less than \$10,000,000;

(ii) the bonds are issued for capital improvement, renovation, rehabilitation, or replacement of one or more school buildings of the district, which buildings were originally constructed not less than 70 years ago;

(iii) the voters of the district approve a proposition for the issuance of the bonds at a referendum held on or after March 17, 1998; and

(iv) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(m) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, an elementary school district maintaining grades K through 8 may issue bonds up to an amount, excluding existing indebtedness, not exceeding 18% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 or less than \$7,700,000;

(ii) The school district operates 2 elementary attendance centers that until 1976 were operated as the attendance centers of 2 separate and distinct school districts;

(iii) The bonds are issued for the construction of a new elementary school building to replace an existing multi-level elementary school building of the school district that is not handicapped accessible at all levels and parts of which were constructed more than 75 years ago;

(iv) The voters of the school district approve a proposition for the issuance of the bonds at a referendum held after July 1, 1998; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(n) Notwithstanding the debt limitation prescribed in subsection (a) of this Section or any other provisions of this Section or of any other law, a school district that meets all of the criteria set forth in paragraphs (i) through (vi) of this subsection (n) may incur additional indebtedness by the issuance of bonds in an amount not exceeding the amount certified by the Capital Development Board to the school district as provided in paragraph (iii) of this subsection (n), even though the amount of the additional indebtedness so authorized, when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (n), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable by law to that district:

(i) The school district applies to the State Board of Education for a school construction project grant and submits a district facilities plan in support of its application pursuant to Section 5-20 of the School Construction Law.

(ii) The school district's application and facilities plan are approved by, and the district receives a grant entitlement for a school construction project issued by, the State Board of Education under the School Construction Law.

(iii) The school district has exhausted its bonding capacity or the unused bonding capacity of the district is less than the amount certified by the Capital Development Board to the district under Section 5-15 of the School Construction Law as the dollar amount of the school construction project's cost that the district will be required to finance with non-grant funds in order to receive a school construction project grant under the School Construction Law.

(iv) The bonds are issued for a "school construction project", as that term is defined in Section 5-5 of the School Construction Law, in an amount that does not exceed the dollar amount certified, as provided in paragraph (iii) of this subsection (n), by the Capital Development Board to the school district under Section 5-15 of the School Construction Law.

(v) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after the criteria specified in paragraphs (i) and (iii) of this subsection (n) are met.

(vi) The bonds are issued pursuant to Sections 19-2 through 19-7 of the School Code.

(o) Notwithstanding any other provisions of this Section or the provisions of any other law, until

November 1, 2007, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 20% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

- (i) the school district has an equalized assessed valuation for calendar year 2001 of at least \$737,000,000 and an enrollment for the 2002-2003 school year of at least 8,500;
- (ii) the bonds are issued to purchase school sites, build and equip a new high school, build and equip a new junior high school, build and equip 5 new elementary schools, and make technology and other improvements and additions to existing schools;
- (iii) at the time of the sale of the bonds, the board of education determines by resolution that the sites and new or improved facilities are needed because of projected enrollment increases;
- (iv) at least 57% of those voting in a general election held prior to January 1, 2003 approved a proposition for the issuance of the bonds; and
- (v) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p) Notwithstanding any other provisions of this Section or the provisions of any other law, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

- (i) The school district has an equalized assessed valuation for calendar year 2001 of at least \$295,741,187 and a best 3 months' average daily attendance for the 2002-2003 school year of at least 2,394.
- (ii) The bonds are issued to build and equip 3 elementary school buildings; build and equip one middle school building; and alter, repair, improve, and equip all existing school buildings in the district.
- (iii) At the time of the sale of the bonds, the board of education determines by resolution that the project is needed because of expanding growth in the school district and a projected enrollment increase.
- (iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p-5) Notwithstanding any other provisions of this Section or the provisions of any other law, bonds issued by a community unit school district maintaining grades K through 12 shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness, if all of the following conditions are met:

- (i) For each of the 4 most recent years, residential property comprises more than 80% of the equalized assessed valuation of the district.
- (ii) At least 2 school buildings that were constructed 40 or more years prior to the issuance of the bonds will be demolished and will be replaced by new buildings or additions to one or more existing buildings.
- (iii) Voters of the district approve a proposition for the issuance of the bonds at a regularly scheduled election.
- (iv) At the time of the sale of the bonds, the school board determines by resolution that the new buildings or building additions are needed because of an increase in enrollment projected by the school board.
- (v) The principal amount of the bonds, including existing indebtedness, does not exceed 25% of the equalized assessed value of the taxable property in the district.
- (vi) The bonds are issued prior to January 1, 2007, pursuant to Sections 19-2 through 19-7 of this Code.

(Source: P.A. 93-13, eff. 6-9-03; 93-799, eff. 7-22-04; 93-1045, eff. 10-15-04; revised 10-22-04.)

(Text of Section after amendment by P.A. 94-234)

Sec. 19-1. Debt limitations of school districts.

(a) School districts shall not be subject to the provisions limiting their indebtedness prescribed in "An Act to limit the indebtedness of counties having a population of less than 500,000 and townships, school districts and other municipal corporations having a population of less than 300,000", approved February 15, 1928, as amended.

No school districts maintaining grades K through 8 or 9 through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 6.9% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school

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district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

No school districts maintaining grades K through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 13.8% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

Notwithstanding the provisions of any other law to the contrary, in any case in which the voters of a school district have approved a proposition for the issuance of bonds of such school district at an election held prior to January 1, 1979, and all of the bonds approved at such election have not been issued, the debt limitation applicable to such school district during the calendar year 1979 shall be computed by multiplying the value of taxable property therein, including personal property, as ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, by the percentage limitation applicable to such school district under the provisions of this subsection (a).

(b) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, additional indebtedness may be incurred in an amount not to exceed the estimated cost of acquiring or improving school sites or constructing and equipping additional building facilities under the following conditions:

(1) Whenever the enrollment of students for the next school year is estimated by the board of education to increase over the actual present enrollment by not less than 35% or by not less than 200 students or the actual present enrollment of students has increased over the previous school year by not less than 35% or by not less than 200 students and the board of education determines that additional school sites or building facilities are required as a result of such increase in enrollment; and

(2) When the Regional Superintendent of Schools having jurisdiction over the school district and the State Superintendent of Education concur in such enrollment projection or increase and approve the need for such additional school sites or building facilities and the estimated cost thereof; and

(3) When the voters in the school district approve a proposition for the issuance of bonds for the purpose of acquiring or improving such needed school sites or constructing and equipping such needed additional building facilities at an election called and held for that purpose. Notice of such an election shall state that the amount of indebtedness proposed to be incurred would exceed the debt limitation otherwise applicable to the school district. The ballot for such proposition shall state what percentage of the equalized assessed valuation will be outstanding in bonds if the proposed issuance of bonds is approved by the voters; or

(4) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection (b), if the school board determines that additional facilities are needed to provide a quality educational program and not less than 2/3 of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose; or

(5) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection (b), if (i) the school district has previously availed itself of the provisions of paragraph (4) of this subsection (b) to enable it to issue bonds, (ii) the voters of the school district have not defeated a proposition for the issuance of bonds since the referendum described in paragraph (4) of this subsection (b) was held, (iii) the school board determines that additional facilities are needed to provide a quality educational program, and (iv) a majority of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose.

In no event shall the indebtedness incurred pursuant to this subsection (b) and the existing indebtedness of the school district exceed 15% of the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979.

The indebtedness provided for by this subsection (b) shall be in addition to and in excess of any other debt limitation.

(c) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, in any case in which a public question for the issuance of bonds of a proposed school district maintaining grades kindergarten through 12 received at least 60% of the valid ballots cast on the question at an election held

on or prior to November 8, 1994, and in which the bonds approved at such election have not been issued, the school district pursuant to the requirements of Section 11A-10 may issue the total amount of bonds approved at such election for the purpose stated in the question.

(d) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) and (2) of this subsection (d) may incur an additional indebtedness in an amount not to exceed \$4,500,000, even though the amount of the additional indebtedness authorized by this subsection (d), when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (d), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable to that district under subsection (a):

(1) The additional indebtedness authorized by this subsection (d) is incurred by the school district through the issuance of bonds under and in accordance with Section 17-2.11a for the purpose of replacing a school building which, because of mine subsidence damage, has been closed as provided in paragraph (2) of this subsection (d) or through the issuance of bonds under and in accordance with Section 19-3 for the purpose of increasing the size of, or providing for additional functions in, such replacement school buildings, or both such purposes.

(2) The bonds issued by the school district as provided in paragraph (1) above are issued for the purposes of construction by the school district of a new school building pursuant to Section 17-2.11, to replace an existing school building that, because of mine subsidence damage, is closed as of the end of the 1992-93 school year pursuant to action of the regional superintendent of schools of the educational service region in which the district is located under Section 3-14.22 or are issued for the purpose of increasing the size of, or providing for additional functions in, the new school building being constructed to replace a school building closed as the result of mine subsidence damage, or both such purposes.

(e) (Blank).

(f) Notwithstanding the provisions of subsection (a) of this Section or of any other law, bonds in not to exceed the aggregate amount of \$5,500,000 and issued by a school district meeting the following criteria shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness:

(1) At the time of the sale of such bonds, the board of education of the district shall have determined by resolution that the enrollment of students in the district is projected to increase by not less than 7% during each of the next succeeding 2 school years.

(2) The board of education shall also determine by resolution that the improvements to be financed with the proceeds of the bonds are needed because of the projected enrollment increases.

(3) The board of education shall also determine by resolution that the projected increases in enrollment are the result of improvements made or expected to be made to passenger rail facilities located in the school district.

Notwithstanding the provisions of subsection (a) of this Section or of any other law, a school district that has availed itself of the provisions of this subsection (f) prior to July 22, 2004 (the effective date of Public Act 93-799) may also issue bonds approved by referendum up to an amount, including existing indebtedness, not exceeding 25% of the equalized assessed value of the taxable property in the district if all of the conditions set forth in items (1), (2), and (3) of this subsection (f) are met.

(g) Notwithstanding the provisions of subsection (a) of this Section or any other law, bonds in not to exceed an aggregate amount of 25% of the equalized assessed value of the taxable property of a school district and issued by a school district meeting the criteria in paragraphs (i) through (iv) of this subsection shall not be considered indebtedness for purposes of any statutory limitation and may be issued pursuant to resolution of the school board in an amount or amounts, including existing indebtedness, in excess of any statutory limitation of indebtedness heretofore or hereafter imposed:

(i) The bonds are issued for the purpose of constructing a new high school building to replace two adjacent existing buildings which together house a single high school, each of which is more than 65 years old, and which together are located on more than 10 acres and less than 11 acres of property.

(ii) At the time the resolution authorizing the issuance of the bonds is adopted, the cost of constructing a new school building to replace the existing school building is less than 60% of the cost of repairing the existing school building.

(iii) The sale of the bonds occurs before July 1, 1997.

(iv) The school district issuing the bonds is a unit school district located in a county of less than 70,000 and more than 50,000 inhabitants, which has an average daily attendance of

less than 1,500 and an equalized assessed valuation of less than \$29,000,000.

(h) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27.6% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$24,000,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which buildings were originally constructed not less than 40 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after March 19, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(i) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$44,600,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which existing buildings were originally constructed not less than 80 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after December 31, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(j) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$140,000,000 and a best 3 months average daily attendance for the 1995-96 school year of at least 2,800;

(ii) The bonds are issued to purchase a site and build and equip a new high school, and the school district's existing high school was originally constructed not less than 35 years prior to the sale of the bonds;

(iii) At the time of the sale of the bonds, the board of education determines by resolution that a new high school is needed because of projected enrollment increases;

(iv) At least 60% of those voting in an election held after December 31, 1996 approve a proposition for the issuance of the bonds; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(k) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) through (4) of this subsection (k) may issue bonds to incur an additional indebtedness in an amount not to exceed \$4,000,000 even though the amount of the additional indebtedness authorized by this subsection (k), when incurred and added to the aggregate amount of indebtedness of the school district existing immediately prior to the school district incurring such additional indebtedness, causes the aggregate indebtedness of the school district to exceed or increases the amount by which the aggregate indebtedness of the district already exceeds the debt limitation otherwise applicable to that school district under subsection (a):

(1) the school district is located in 2 counties, and a referendum to authorize the additional indebtedness was approved by a majority of the voters of the school district voting on the proposition to authorize that indebtedness;

(2) the additional indebtedness is for the purpose of financing a multi-purpose room addition to the existing high school;

(3) the additional indebtedness, together with the existing indebtedness of the school district, shall not exceed 17.4% of the value of the taxable property in the school district, to be ascertained by the last assessment for State and county taxes; and

(4) the bonds evidencing the additional indebtedness are issued, if at all, within 120 days of the effective date of this amendatory Act of 1998.

(l) Notwithstanding any other provisions of this Section or the provisions of any other law, until

January 1, 2000, a school district maintaining grades kindergarten through 8 may issue bonds up to an amount, including existing indebtedness, not exceeding 15% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

- (i) the district has an equalized assessed valuation for calendar year 1996 of less than \$10,000,000;
 - (ii) the bonds are issued for capital improvement, renovation, rehabilitation, or replacement of one or more school buildings of the district, which buildings were originally constructed not less than 70 years ago;
 - (iii) the voters of the district approve a proposition for the issuance of the bonds at a referendum held on or after March 17, 1998; and
 - (iv) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.
- (m) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, an elementary school district maintaining grades K through 8 may issue bonds up to an amount, excluding existing indebtedness, not exceeding 18% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

- (i) The school district has an equalized assessed valuation for calendar year 1995 or less than \$7,700,000;
 - (ii) The school district operates 2 elementary attendance centers that until 1976 were operated as the attendance centers of 2 separate and distinct school districts;
 - (iii) The bonds are issued for the construction of a new elementary school building to replace an existing multi-level elementary school building of the school district that is not handicapped accessible at all levels and parts of which were constructed more than 75 years ago;
 - (iv) The voters of the school district approve a proposition for the issuance of the bonds at a referendum held after July 1, 1998; and
 - (v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.
- (n) Notwithstanding the debt limitation prescribed in subsection (a) of this Section or any other provisions of this Section or of any other law, a school district that meets all of the criteria set forth in paragraphs (i) through (vi) of this subsection (n) may incur additional indebtedness by the issuance of bonds in an amount not exceeding the amount certified by the Capital Development Board to the school district as provided in paragraph (iii) of this subsection (n), even though the amount of the additional indebtedness so authorized, when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (n), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable by law to that district:

- (i) The school district applies to the State Board of Education for a school construction project grant and submits a district facilities plan in support of its application pursuant to Section 5-20 of the School Construction Law.
 - (ii) The school district's application and facilities plan are approved by, and the district receives a grant entitlement for a school construction project issued by, the State Board of Education under the School Construction Law.
 - (iii) The school district has exhausted its bonding capacity or the unused bonding capacity of the district is less than the amount certified by the Capital Development Board to the district under Section 5-15 of the School Construction Law as the dollar amount of the school construction project's cost that the district will be required to finance with non-grant funds in order to receive a school construction project grant under the School Construction Law.
 - (iv) The bonds are issued for a "school construction project", as that term is defined in Section 5-5 of the School Construction Law, in an amount that does not exceed the dollar amount certified, as provided in paragraph (iii) of this subsection (n), by the Capital Development Board to the school district under Section 5-15 of the School Construction Law.
 - (v) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after the criteria specified in paragraphs (i) and (iii) of this subsection (n) are met.
 - (vi) The bonds are issued pursuant to Sections 19-2 through 19-7 of the School Code.
- (o) Notwithstanding any other provisions of this Section or the provisions of any other law, until November 1, 2007, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 20% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

- (i) the school district has an equalized assessed valuation for calendar year 2001 of at least \$737,000,000 and an enrollment for the 2002-2003 school year of at least 8,500;
- (ii) the bonds are issued to purchase school sites, build and equip a new high school,

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build and equip a new junior high school, build and equip 5 new elementary schools, and make technology and other improvements and additions to existing schools;

(iii) at the time of the sale of the bonds, the board of education determines by resolution that the sites and new or improved facilities are needed because of projected enrollment increases;

(iv) at least 57% of those voting in a general election held prior to January 1, 2003

approved a proposition for the issuance of the bonds; and

(v) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p) Notwithstanding any other provisions of this Section or the provisions of any other law, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 2001 of at least \$295,741,187 and a best 3 months' average daily attendance for the 2002-2003 school year of at least 2,394.

(ii) The bonds are issued to build and equip 3 elementary school buildings; build and equip one middle school building; and alter, repair, improve, and equip all existing school buildings in the district.

(iii) At the time of the sale of the bonds, the board of education determines by resolution that the project is needed because of expanding growth in the school district and a projected enrollment increase.

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p-5) Notwithstanding any other provisions of this Section or the provisions of any other law, bonds issued by a community unit school district maintaining grades K through 12 shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness, if all of the following conditions are met:

(i) For each of the 4 most recent years, residential property comprises more than 80% of the equalized assessed valuation of the district.

(ii) At least 2 school buildings that were constructed 40 or more years prior to the issuance of the bonds will be demolished and will be replaced by new buildings or additions to one or more existing buildings.

(iii) Voters of the district approve a proposition for the issuance of the bonds at a regularly scheduled election.

(iv) At the time of the sale of the bonds, the school board determines by resolution that the new buildings or building additions are needed because of an increase in enrollment projected by the school board.

(v) The principal amount of the bonds, including existing indebtedness, does not exceed 25% of the equalized assessed value of the taxable property in the district.

(vi) The bonds are issued prior to January 1, 2007, pursuant to Sections 19-2 through 19-7 of this Code.

(q) A school district must notify the State Board of Education prior to issuing any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in this Section or any other provision of law.

(Source: P.A. 93-13, eff. 6-9-03; 93-799, eff. 7-22-04; 93-1045, eff. 10-15-04; 94-234, eff. 7-1-06.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 852**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-------------|------------|--------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan, J. |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Lauzen | Risinger | |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Halvorson, **Senate Bill No. 1268** was recalled from the order of third reading to the order of second reading.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1268

AMENDMENT NO. 1. Amend Senate Bill 1268 by replacing everything after the enacting clause with the following:

"Section 5. The Prevailing Wage Act is amended by changing Section 5 as follows:
(820 ILCS 130/5) (from Ch. 48, par. 39s-5)

Sec. 5. Certified payroll.

(a) While participating on public works, the contractor and each subcontractor shall:

(1) make and keep, for a period of not less than 3 years, records of all laborers, mechanics, and other workers employed by them on the project; the records shall include each worker's name, address, telephone number when available, social security number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked each day, and the starting and ending times of work each day; and

(2) submit monthly, in person, by mail, or electronically a certified payroll to the public body in charge of the project. The certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (a), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor which avers that: (i) such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to

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be false is a Class B misdemeanor. A general contractor is not prohibited from relying on the certification of a lower tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification. Any contractor or subcontractor subject to this Act who fails to submit a certified payroll or knowingly files a false certified payroll is in violation of this Act and guilty of a Class B misdemeanor. The public body in charge of the project shall keep the records submitted in accordance with this paragraph (2) of subsection (a) for a period of not less than 3 years. The records submitted in accordance with this paragraph (2) of subsection (a) shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The public body shall accept any reasonable submissions by the contractor that meet the requirements of this Section.

(b) Upon 2 business days' notice, the contractor and each subcontractor shall make available for inspection the records identified in paragraph (1) of subsection (a) of this Section to the public body in charge of the project, its officers and agents, and to the Director of Labor and his deputies and agents. Upon 2 business days' notice, the contractor and each subcontractor shall make such records available at all reasonable hours at a location within this State.

(Source: P.A. 93-38, eff. 6-1-04; 94-515, eff. 8-10-05.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1268

AMENDMENT NO. 2. Amend Senate Bill 1268, AS AMENDED, by replacing subsection (b) of Sec. 5 of Section 5 with the following:

"(b) Upon 7 ~~2~~ business days' notice, the contractor and each subcontractor shall make available for inspection the records identified in paragraph (1) of subsection (a) of this Section to the public body in charge of the project, its officers and agents, and to the Director of Labor and his deputies and agents. Upon 7 ~~2~~ business days' notice, the contractor and each subcontractor shall make such records available at all reasonable hours at a location within this State."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Halvorson, **Senate Bill No. 1268**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

| | | | |
|-----------|-----------|----------|------------|
| Althoff | Forby | Maloney | Sandoval |
| Axley | Garrett | Martinez | Schoenberg |
| Bomke | Geo-Karis | Meeks | Shadid |
| Brady | Haine | Millner | Sieben |
| Burzynski | Halvorson | Munoz | Sullivan |
| Clayborne | Harmon | Pankau | Syverson |
| Collins | Hendon | Peterson | Trotter |
| Cronin | Hunter | Petka | Viverito |

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| | | | |
|-----------|-------------|------------|---------------|
| Crotty | Jacobs | Radogno | Watson |
| Cullerton | Jones, J. | Raoul | Wilhelmi |
| Dahl | Jones, W. | Righter | Winkel |
| del Valle | Lauzen | Risinger | Mr. President |
| DeLeo | Lightford | Ronen | |
| Demuzio | Link | Roskam | |
| Dillard | Luechtefeld | Rutherford | |

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 1:00 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 3:03 o'clock p.m., the Senate resumed consideration of business.
Senator Hendon, presiding.

REPORTS FROM STANDING COMMITTEES

Senator Harmon, Chairperson of the Committee on Revenue, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to House Bill 2706

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Cullerton, Vice-Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 830
Senate Amendment No. 1 to Senate Bill 1283

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

MESSAGE FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 230

A bill for AN ACT concerning public employee benefits.
Passed the House, October 26, 2005.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 230** was taken up, ordered printed and placed on first reading.

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INTRODUCTION OF BILLS

SENATE BILL NO. 2146. Introduced by Senators Righter - Althoff, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2147. Introduced by Senator Maloney, a bill for AN ACT concerning public employee benefits.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2148. Introduced by Senator Jacobs, a bill for AN ACT concerning public employee benefits.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 230, sponsored by Senator Martinez was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 258, sponsored by Senator Collins was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2011, sponsored by Senator Martinez was taken up, read by title a first time and referred to the Committee on Rules.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Halvorson, **House Bill No. 1716** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator DeLeo, **House Bill No. 2900** was taken up, read by title a second time and ordered to a third reading.

HOUSE BILL RECALLED

On motion of Senator E. Jones, **House Bill No. 806** was recalled from the order of third reading to the order of second reading.

Floor Amendment Nos. 1 and 2 were held in the Committee on Rules.

Senator E. Jones offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO HOUSE BILL 806

AMENDMENT NO. 3. Amend House Bill 806 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Covering ALL KIDS Health Insurance Act.

Section 5. Legislative intent. The General Assembly finds that, for the economic and social benefit of all residents of the State, it is important to enable all children of this State to access affordable health insurance that offers comprehensive coverage and emphasizes preventive healthcare. Many children in working families, including many families whose family income ranges between \$40,000 and \$80,000, are uninsured. Numerous studies, including the Institute of Medicine's report, "Health Insurance Matters", demonstrate that lack of insurance negatively affects health status. The General Assembly further finds that access to healthcare is a key component for children's healthy development and

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successful education. The effects of lack of insurance also negatively impact those who are insured because the cost of paying for care to the uninsured is often shifted to those who have insurance in the form of higher health insurance premiums. A Families USA 2005 report indicates that family premiums in Illinois are increased by \$1,059 due to cost-shifting from the uninsured. It is, therefore, the intent of this legislation to provide access to affordable health insurance to all uninsured children in Illinois.

Section 10. Definitions. In this Act:

"Application agent" means an organization or individual, such as a licensed health care provider, school, youth service agency, employer, labor union, local chamber of commerce, community-based organization, or other organization, approved by the Department to assist in enrolling children in the Program.

"Child" means a person under the age of 19.

"Department" means the Department of Healthcare and Family Services.

"Medical assistance" means health care benefits provided under Article V of the Illinois Public Aid Code.

"Program" means the Covering ALL KIDS Health Insurance Program.

"Resident" means an individual (i) who is in the State for other than a temporary or transitory purpose during the taxable year or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year.

Section 15. Operation of Program. The Covering ALL KIDS Health Insurance Program is created. The Program shall be administered by the Department of Healthcare and Family Services. The Department shall have the same powers and authority to administer the Program as are provided to the Department in connection with the Department's administration of the Illinois Public Aid Code and the Children's Health Insurance Program Act. The Department shall coordinate the Program with the existing children's health programs operated by the Department and other State agencies.

Section 20. Eligibility.

(a) To be eligible for the Program, a person must be a child:

(1) who is a resident of the State of Illinois; and

(2) who is ineligible for medical assistance under the Illinois Public Aid Code or benefits under the Children's Health Insurance Program Act; and

(3) either (i) who has been without health insurance coverage for a period set forth by the Department in rules, but not less than 6 months during the first month of operation of the Program, 7 months during the second month of operation, 8 months during the third month of operation, 9 months during the fourth month of operation, 10 months during the fifth month of operation, 11 months during the sixth month of operation, and 12 months thereafter, (ii) whose parent has lost employment that made available affordable dependent health insurance coverage, until such time as affordable employer-sponsored dependent health insurance coverage is again available for the child as set forth by the Department in rules, (iii) who is a newborn whose responsible relative does not have available affordable private or employer-sponsored health insurance, or (iv) who, within one year of applying for coverage under this Act, lost medical benefits under the Illinois Public Aid Code or the Children's Health Insurance Program Act.

An entity that provides health insurance coverage (as defined in Section 2 of the Comprehensive Health Insurance Plan Act) to Illinois residents shall provide health insurance data match to the Department of Healthcare and Family Services for the purpose of determining eligibility for the Program under this Act.

The Department of Healthcare and Family Services, in collaboration with the Department of Financial and Professional Regulation, Division of Insurance, shall adopt rules governing the exchange of information under this Section. The rules shall be consistent with all laws relating to the confidentiality or privacy of personal information or medical records, including provisions under the Federal Health Insurance Portability and Accountability Act (HIPAA).

(b) The Department shall monitor the availability and retention of employer-sponsored dependent health insurance coverage and shall modify the period described in subdivision (a)(3) if necessary to promote retention of private or employer-sponsored health insurance and timely access to healthcare services, but at no time shall the period described in subdivision (a)(3) be less than 6 months.

(c) The Department, at its discretion, may take into account the affordability of dependent health insurance when determining whether employer-sponsored dependent health insurance coverage

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is available upon reemployment of a child's parent as provided in subdivision (a)(3).

(d) A child who is determined to be eligible for the Program shall remain eligible for 12 months, provided that the child maintains his or her residence in this State, has not yet attained 19 years of age, and is not excluded under subsection (e).

(e) A child is not eligible for coverage under the Program if:

(1) the premium required under Section 40 has not been timely paid; if the required premiums are not paid, the liability of the Program shall be limited to benefits incurred under the Program for the time period for which premiums have been paid; if the required monthly premium is not paid, the child is ineligible for re-enrollment for a minimum period of 3 months; re-enrollment shall be completed before the next covered medical visit, and the first month's required premium shall be paid in advance of the next covered medical visit; or

(2) the child is an inmate of a public institution or an institution for mental diseases.

(f) The Department shall adopt eligibility rules, including, but not limited to: rules regarding annual renewals of eligibility for the Program; rules providing for re-enrollment, grace periods, notice requirements, and hearing procedures under subdivision (e)(1) of this Section; and rules regarding what constitutes availability and affordability of private or employer-sponsored health insurance, with consideration of such factors as the percentage of income needed to purchase children or family health insurance, the availability of employer subsidies, and other relevant factors.

Section 25. Enrollment in Program. The Department shall develop procedures to allow application agents to assist in enrolling children in the Program or other children's health programs operated by the Department. At the Department's discretion, technical assistance payments may be made available for approved applications facilitated by an application agent.

Section 30. Program outreach and marketing. The Department may provide grants to application agents and other community-based organizations to educate the public about the availability of the Program. The Department shall adopt rules regarding performance standards and outcomes measures expected of organizations that are awarded grants under this Section, including penalties for nonperformance of contract standards.

Section 35. Health care benefits for children.

(a) The Department shall purchase or provide health care benefits for eligible children that are identical to the benefits provided for children under the Illinois Children's Health Insurance Program Act, except for non-emergency transportation.

(b) As an alternative to the benefits set forth in subsection (a), and when cost-effective, the Department may offer families subsidies toward the cost of privately sponsored health insurance, including employer-sponsored health insurance.

(c) Notwithstanding clause (i) of subdivision (a)(3) of Section 20, the Department may consider offering, as an alternative to the benefits set forth in subsection (a), partial coverage to children who are enrolled in a high-deductible private health insurance plan.

(d) Notwithstanding clause (i) of subdivision (a)(3) of Section 20, the Department may consider offering, as an alternative to the benefits set forth in subsection (a), a limited package of benefits to children in families who have private or employer-sponsored health insurance that does not cover certain benefits such as dental or vision benefits.

(e) The content and availability of benefits described in subsections (b), (c), and (d), and the terms of eligibility for those benefits, shall be at the Department's discretion and the Department's determination of efficacy and cost-effectiveness as a means of promoting retention of private or employer-sponsored health insurance.

Section 40. Cost-sharing.

(a) Children enrolled in the Program under subsection (a) of Section 35 are subject to the following cost-sharing requirements:

(1) The Department, by rule, shall set forth requirements concerning co-payments and coinsurance for health care services and monthly premiums. This cost-sharing shall be on a sliding scale based on family income. The Department may periodically modify such cost-sharing.

(2) Notwithstanding paragraph (1), there shall be no co-payment required for well-baby or well-child health care, including, but not limited to, age-appropriate immunizations as required under State or federal law.

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(b) Children enrolled in a privately sponsored health insurance plan under subsection (b) of Section 35 are subject to the cost-sharing provisions stated in the privately sponsored health insurance plan.

(c) Notwithstanding any other provision of law, rates paid by the Department shall not be used in any way to determine the usual and customary or reasonable charge, which is the charge for health care that is consistent with the average rate or charge for similar services furnished by similar providers in a certain geographic area.

Section 45. Study.

(a) The Department shall conduct a study that includes, but is not limited to, the following:

(1) Establishing estimates, broken down by regions of the State, of the number of children with and without health insurance coverage; the number of children who are eligible for Medicaid or the Children's Health Insurance Program, and, of that number, the number who are enrolled in Medicaid or the Children's Health Insurance Program; and the number of children with access to dependent coverage through an employer, and, of that number, the number who are enrolled in dependent coverage through an employer.

(2) Surveying those families whose children have access to employer-sponsored dependent coverage but who decline such coverage as to the reasons for declining coverage.

(3) Ascertaining, for the population of children accessing employer-sponsored dependent coverage or who have access to such coverage, the comprehensiveness of dependent coverage available, the amount of cost-sharing currently paid by the employees, and the cost-sharing associated with such coverage.

(4) Measuring the health outcomes or other benefits for children utilizing the Covering ALL KIDS Health Insurance Program and analyzing the effects on utilization of healthcare services for children after enrollment in the Program compared to the preceding period of uninsured status.

(b) The studies described in subsection (a) shall be conducted in a manner that compares a time period preceding or at the initiation of the program with a later period.

(c) The Department shall submit the preliminary results of the study to the Governor and the General Assembly no later than July 1, 2008 and shall submit the final results to the Governor and the General Assembly no later than July 1, 2010.

Section 50. Consultation with stakeholders. The Department shall present details regarding implementation of the Program to the Medicaid Advisory Committee, and the Committee shall serve as the forum for healthcare providers, advocates, consumers, and other interested parties to advise the Department with respect to the Program.

Section 55. Charge upon claims and causes of action; right of subrogation; recoveries. Sections 11-22, 11-22a, 11-22b, and 11-22c of the Illinois Public Aid Code apply to health care benefits provided to children under this Act, as provided in those Sections.

Section 60. Federal financial participation. The Department shall request any necessary state plan amendments or waivers of federal requirements in order to allow receipt of federal funds for implementing any or all of the provisions of the Program. The failure of the responsible federal agency to approve a waiver or other State plan amendment shall not prevent the implementation of any provision of this Act.

Section 65. Emergency rulemaking. The Department may adopt rules necessary to establish and implement this Act through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For the purposes of that Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary for the public interest, safety, and welfare. This Section is repealed on July 1, 2008.

Section 90. The Illinois Public Aid Code is amended by changing Sections 11-22, 11-22a, 11-22b, and 11-22c as follows:

(305 ILCS 5/11-22) (from Ch. 23, par. 11-22)

Sec. 11-22. Charge upon claims and causes of action for injuries. The Illinois Department shall have a charge upon all claims, demands and causes of action for injuries to an applicant for or recipient of (i) financial aid under Articles III, IV, and V or (ii) health care benefits provided under the Covering ALL KIDS Health Insurance Act for the total amount of medical assistance provided the recipient from the

time of injury to the date of recovery upon such claim, demand or cause of action. In addition, if the applicant or recipient was employable, as defined by the Department, at the time of the injury, the Department shall also have a charge upon any such claims, demands and causes of action for the total amount of aid provided to the recipient and his dependents, including all cash assistance and medical assistance only to the extent includable in the claimant's action, from the time of injury to the date of recovery upon such claim, demand or cause of action. Any definition of "employable" adopted by the Department shall apply only to persons above the age of compulsory school attendance.

If the injured person was employable at the time of the injury and is provided aid under Articles III, IV, or V and any dependent or member of his family is provided aid under Article VI, or vice versa, both the Illinois Department and the local governmental unit shall have a charge upon such claims, demands and causes of action for the aid provided to the injured person and any dependent member of his family, including all cash assistance, medical assistance and food stamps, from the time of the injury to the date of recovery.

"Recipient", as used herein, means (i) in the case of financial aid provided under this Code, the grantee of record and any persons whose needs are included in the financial aid provided to the grantee of record or otherwise met by grants under the appropriate Article of this Code for which such person is eligible and (ii) in the case of health care benefits provided under the Covering ALL KIDS Health Insurance Act, the child to whom those benefits are provided.

In each case, the notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or recipient has a claim, demand or cause of action. The notice shall claim the charge and describe the interest the Illinois Department, the local governmental unit, or the county, has in the claim, demand, or cause of action. The charge shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

On petition filed by the Illinois Department, or by the local governmental unit or county if either is claiming a charge, or by the recipient, or by the defendant, the court, on written notice to all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this Section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the Illinois Department, the local governmental unit or county has charge. The court may determine what portion of the recovery shall be paid to the injured person and what portion shall be paid to the Illinois Department, the local governmental unit or county having a charge against the recovery. In making this determination, the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the recipient incident to the recovery; and whether the Department, unit of local government or county seeking to enforce the charge against the recovery should as a matter of fairness and equity bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) the amount, if any, of the attorney's fees and other costs incurred by the recipient incident to the recovery and paid by the recipient up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) the total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the recipient, by insurance provided by the recipient, and by the Department, unit of local government and county seeking to enforce a charge against the recovery, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the recipient;

(5) the age of the recipient and of persons dependent for support upon the recipient, the nature and permanency of the recipient's injuries as they affect not only the future employability and education of the recipient but also the reasonably necessary and foreseeable future material, maintenance, medical, rehabilitative and training needs of the recipient, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such

costs;

(6) the realistic ability of the recipient to repay in whole or in part the charge

sought to be enforced against the recovery when judged in light of the factors enumerated above.

The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction.

The court may reduce and apportion the Illinois Department's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The Illinois Department shall pay its pro rata share of the attorney fees based on the Illinois Department's lien as it compares to the total settlement agreed upon. This Section shall not affect the priority of an attorney's lien under the Attorneys Lien Act. The charges of the Illinois Department described in this Section, however, shall take priority over all other liens and charges existing under the laws of the State of Illinois with the exception of the attorney's lien under said statute.

Whenever the Department or any unit of local government has a statutory charge under this Section against a recovery for damages incurred by a recipient because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, irrespective of whether or not an action based on recipient's claim has been filed in court.

This Section shall be inapplicable to any claim, demand or cause of action arising under (a) the Workers' Compensation Act or the predecessor Workers' Compensation Act of June 28, 1913, (b) the Workers' Occupational Diseases Act or the predecessor Workers' Occupational Diseases Act of March 16, 1936; and (c) the Wrongful Death Act.

(Source: P.A. 91-357, eff. 7-29-99; 92-111, eff. 1-1-02.)

(305 ILCS 5/11-22a) (from Ch. 23, par. 11-22a)

Sec. 11-22a. Right of Subrogation. To the extent of the amount of (i) medical assistance provided by the Department to or on behalf of a recipient under Article V or VI or (ii) health care benefits provided for a child under the Covering ALL KIDS Health Insurance Act, the Department shall be subrogated to any right of recovery such recipient may have under the terms of any private or public health care coverage or casualty coverage, including coverage under the "Workers' Compensation Act", approved July 9, 1951, as amended, or the "Workers' Occupational Diseases Act", approved July 9, 1951, as amended, without the necessity of assignment of claim or other authorization to secure the right of recovery to the Department. To enforce its subrogation right, the Department may (i) intervene or join in an action or proceeding brought by the recipient, his or her guardian, personal representative, estate, dependents, or survivors against any person or public or private entity that may be liable; (ii) institute and prosecute legal proceedings against any person or public or private entity that may be liable for the cost of such services; or (iii) institute and prosecute legal proceedings, to the extent necessary to reimburse the Illinois Department for its costs, against any noncustodial parent who (A) is required by court or administrative order to provide insurance or other coverage of the cost of health care services for a child eligible for medical assistance under this Code and (B) has received payment from a third party for the costs of those services but has not used the payments to reimburse either the other parent or the guardian of the child or the provider of the services.

(Source: P.A. 92-111, eff. 1-1-02.)

(305 ILCS 5/11-22b) (from Ch. 23, par. 11-22b)

Sec. 11-22b. Recoveries.

(a) As used in this Section:

(1) "Carrier" means any insurer, including any private company, corporation, mutual association, trust fund, reciprocal or interinsurance exchange authorized under the laws of this State to insure persons against liability or injuries caused to another and any insurer providing benefits under a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of a motor vehicle which provides uninsured motorist endorsement or coverage.

(2) "Beneficiary" means any person or their dependents who has received benefits or will be provided benefits under this Code or under the Covering ALL KIDS Health Insurance Act because of an injury for which another person may be liable. It includes such beneficiary's guardian, conservator or other personal representative, his estate or survivors.

(b) (1) When benefits are provided or will be provided to a beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act because of an injury for which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of insurance issued pursuant to the Illinois Insurance Code, the Illinois Department shall have a right to recover from such person or carrier the reasonable value of benefits so provided. The Attorney General may, to enforce such right,

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institute and prosecute legal proceedings against the third person or carrier who may be liable for the injury in an appropriate court, either in the name of the Illinois Department or in the name of the injured person, his guardian, personal representative, estate, or survivors.

(2) The Department may:

(A) compromise or settle and release any such claim for benefits provided under this Code, or

(B) waive any such claims for benefits provided under this Code, in whole or in part, for the convenience of the Department or if the Department determines that collection would result in undue hardship upon the person who suffered the injury or, in a wrongful death action, upon the heirs of the deceased.

(3) No action taken on behalf of the Department pursuant to this Section or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action of the beneficiary, his guardian, conservator, personal representative, estate, dependents or survivors against the third person who may be liable for the injury, or shall operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder.

(c) (1) When an action is brought by the Department pursuant to subsection (b), it shall be commenced within the period prescribed by Article XIII of the Code of Civil Procedure.

However, the Department may not commence the action prior to 5 months before the end of the applicable period prescribed by Article XIII of the Code of Civil Procedure. Thirty days prior to commencing an action, the Department shall notify the beneficiary of the Department's intent to commence such an action.

(2) The death of the beneficiary does not abate any right of action established by subsection (b).

(3) When an action or claim is brought by persons entitled to bring such actions or assert such claims against a third person who may be liable for causing the death of a beneficiary, any settlement, judgment or award obtained is subject to the Department's claim for reimbursement of the benefits provided to the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act.

(4) When the action or claim is brought by the beneficiary alone and the beneficiary incurs a personal liability to pay attorney's fees and costs of litigation, the Department's claim for reimbursement of the benefits provided to the beneficiary shall be the full amount of benefits paid on behalf of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act less a pro rata share which represents the Department's reasonable share of attorney's fees paid by the beneficiary and that portion of the cost of litigation expenses determined by multiplying by the ratio of the full amount of the expenditures of the full amount of the judgment, award or settlement.

(d) (1) If either the beneficiary or the Department brings an action or claim against such third party or carrier, the beneficiary or the Department shall within 30 days of filing the action give to the other written notice by personal service or registered mail of the action or claim and of the name of the court in which the action or claim is brought. Proof of such notice shall be filed in such action or claim. If an action or claim is brought by either the Department or the beneficiary, the other may, at any time before trial on the facts, become a party to such action or claim or shall consolidate his action or claim with the other if brought independently.

(2) If an action or claim is brought by the Department pursuant to subsection (b)(1), written notice to the beneficiary, guardian, personal representative, estate or survivor given pursuant to this Section shall advise him of his right to intervene in the proceeding, his right to obtain a private attorney of his choice and the Department's right to recover the reasonable value of the benefits provided.

(e) In the event of judgment or award in a suit or claim against such third person or carrier:

(1) If the action or claim is prosecuted by the beneficiary alone, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees, when an attorney has been retained. After payment of such expenses and attorney's fees the court shall, on the application of the Department, allow as a first lien against the amount of such judgment or award the amount of the Department's expenditures for the benefit of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act, as provided in subsection (c)(4).

(2) If the action or claim is prosecuted both by the beneficiary and the Department, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees for plaintiffs attorneys based solely on the services rendered for the benefit of the beneficiary. After payment of such expenses and attorney's fees, the court shall apply out of the balance of such judgment or award an amount sufficient to reimburse the Department the full amount of benefits paid on behalf of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act.

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(f) The court shall, upon further application at any time before the judgment or award is satisfied, allow as a further lien the amount of any expenditures of the Department in payment of additional benefits arising out of the same cause of action or claim provided on behalf of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act, when such benefits were provided or became payable subsequent to the original order.

(g) No judgment, award, or settlement in any action or claim by a beneficiary to recover damages for injuries, when the Department has an interest, shall be satisfied without first giving the Department notice and a reasonable opportunity to perfect and satisfy its lien.

(h) When the Department has perfected a lien upon a judgment or award in favor of a beneficiary against any third party for an injury for which the beneficiary has received benefits under this Code or under the Covering ALL KIDS Health Insurance Act, the Department shall be entitled to a writ of execution as lien claimant to enforce payment of said lien against such third party with interest and other accruing costs as in the case of other executions. In the event the amount of such judgment or award so recovered has been paid to the beneficiary, the Department shall be entitled to a writ of execution against such beneficiary to the extent of the Department's lien, with interest and other accruing costs as in the case of other executions.

(i) Except as otherwise provided in this Section, notwithstanding any other provision of law, the entire amount of any settlement of the injured beneficiary's action or claim, with or without suit, is subject to the Department's claim for reimbursement of the benefits provided and any lien filed pursuant thereto to the same extent and subject to the same limitations as in Section 11-22 of this Code.

(Source: P.A. 92-651, eff. 7-11-02.)

(305 ILCS 5/11-22c) (from Ch. 23, par. 11-22c)

Sec. 11-22c. (a) As used in this Section, "recipient" means any person receiving financial assistance under Article IV or Article VI of this Code or receiving health care benefits under the Covering ALL KIDS Health Insurance Act.

(b) If a recipient maintains any suit, charge or other court or administrative action against an employer seeking back pay for a period during which the recipient received financial assistance under Article IV or Article VI of this Code or health care benefits under the Covering ALL KIDS Health Insurance Act, the recipient shall report such fact to the Department. To the extent of the amount of assistance provided to or on behalf of the recipient under Article IV or Article VI or health care benefits provided under the Covering ALL KIDS Health Insurance Act, the Department may by intervention or otherwise without the necessity of assignment of claim, attach a lien on the recovery of back wages equal to the amount of assistance provided by the Department to the recipient under Article IV or Article VI or under the Covering ALL KIDS Health Insurance Act.

(Source: P.A. 86-497.)

Section 97. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 98. Repealer. This Act is repealed on July 1, 2011.

Section 99. Effective date. This Act takes effect July 1, 2006."

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator E. Jones, **House Bill No. 806**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 32; Nays 23; Present 2.

The following voted in the affirmative:

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| | | | |
|-----------|-----------|------------|---------------|
| Axley | Garrett | Maloney | Sullivan, J. |
| Clayborne | Haine | Martinez | Trotter |
| Collins | Halvorson | Meeks | Viverito |
| Crotty | Harmon | Munoz | Wilhelmi |
| Cullerton | Hendon | Raoul | Mr. President |
| del Valle | Hunter | Ronen | |
| DeLeo | Jacobs | Sandoval | |
| Demuzio | Lightford | Schoenberg | |
| Forby | Link | Shadid | |

The following voted in the negative:

| | | | |
|-----------|-------------|----------|------------|
| Althoff | Jones, J. | Peterson | Rutherford |
| Bomke | Jones, W. | Petka | Sieben |
| Brady | Lauzen | Radogno | Syverson |
| Burzynski | Luechtefeld | Righter | Watson |
| Cronin | Millner | Risinger | Winkel |
| Dahl | Pankau | Roskam | |

The following voted present:

Dillard
Geo-Karis

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

At the hour of 4:45 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, October 27, 2005, at 9:00 o'clock a.m..